

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

470
IN THE
United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19,842

WESTERN STATES REGIONAL COUNCIL NO. 3, INTER-
NATIONAL WOODWORKERS OF AMERICA, AFL-CIO,

and

WESTERN COUNCIL OF LUMBER AND SAWMILL
WORKERS, AFL-CIO, *Petitioners,*

v.

NATIONAL LABOR RELATIONS BOARD, *Respondent,*

and

WEYERHAEUSER COMPANY, CROWN ZELLERBACH
CORPORATION, RAYONIER INCORPORATED, INTER-
NATIONAL PAPER COMPANY AND ASSOCIATION,
Intervenors.

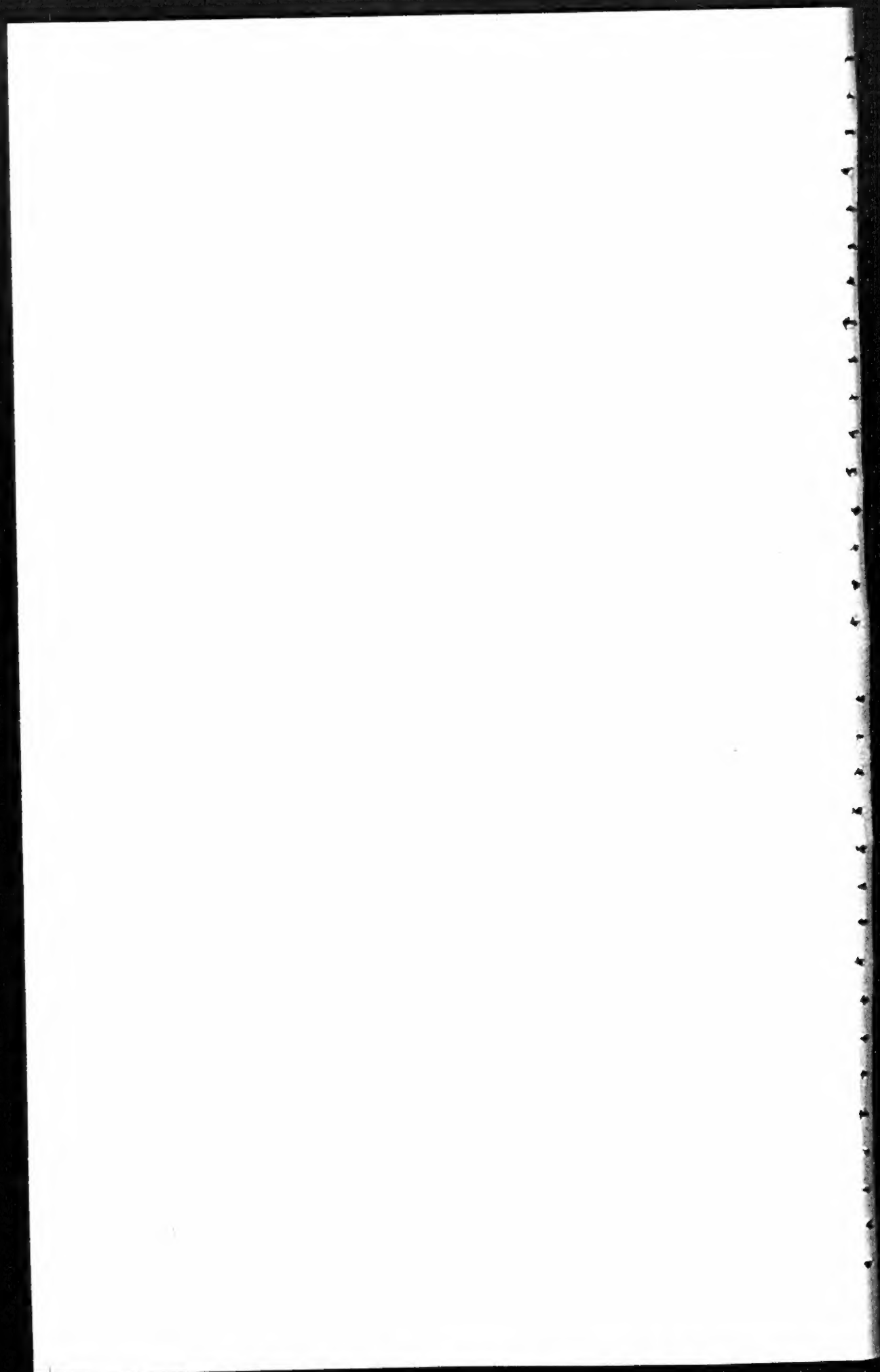
ON PETITION TO REVIEW ON ORDER OF THE NATIONAL LABOR RELATIONS
BOARD

JOINT APPENDIX

United States Court of Appeals
for the District of Columbia Circuit

FILED MAY 16 1966

Nathan J. Paulson
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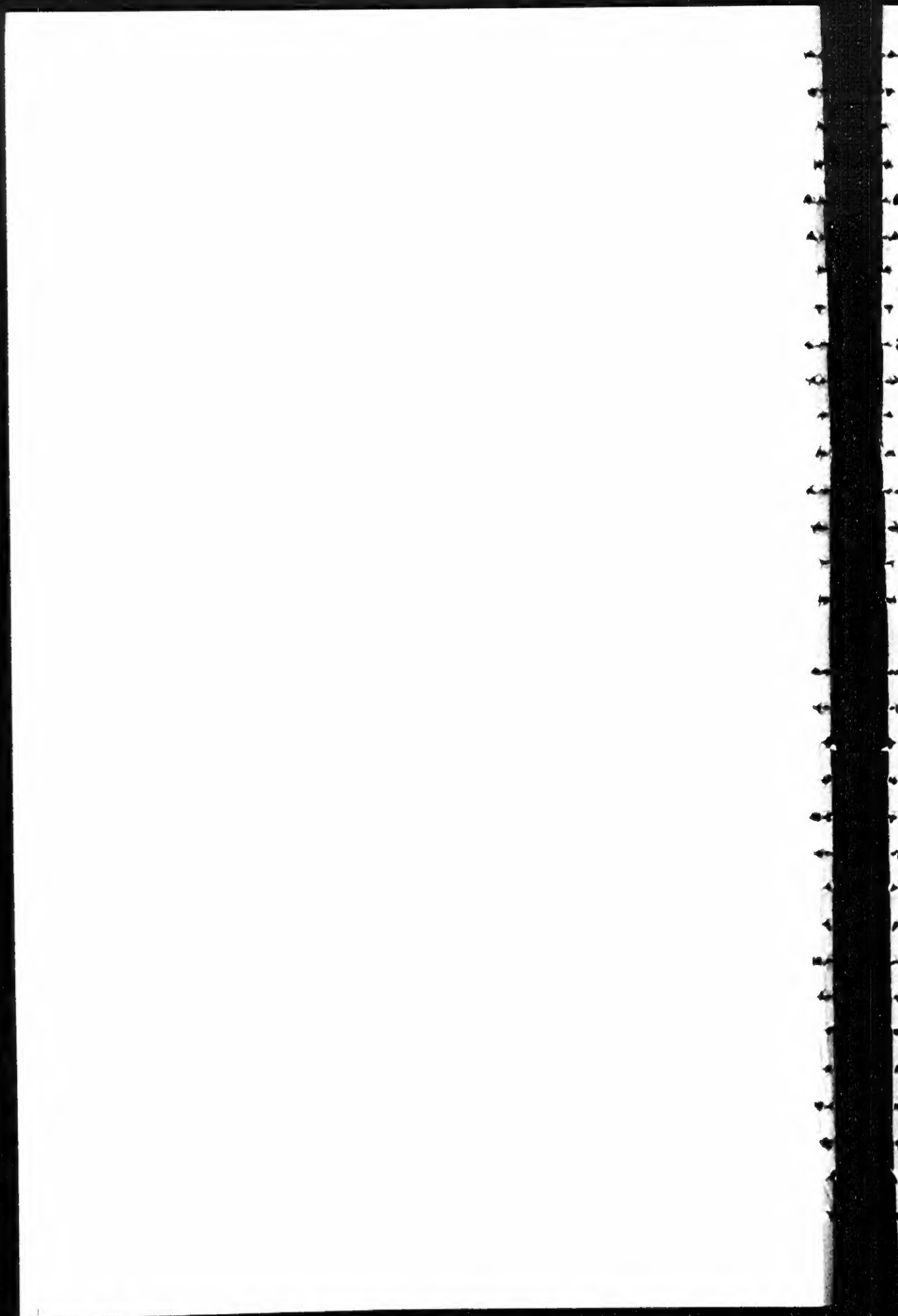


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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

Case No. 36-CA-1261

Case No. 19-CA-2652

WEYERHAEUSER COMPANY; CROWN ZELLERBACH CORPORATION;
RAYONIER INCORPORATED; INTERNATIONAL PAPER COMPANY;
AND ASSOCIATION

and

WESTERN STATES REGIONAL COUNCIL No. 3, INTERNATIONAL
WOODWORKERS OF AMERICA, AFL-CIO

and

WESTERN COUNCIL OF LUMBER AND SAWMILL WORKERS,
AFL-CIO

DECISION AND ORDER

On April 5, 1965, Trial Examiner James R. Hemingway issued his Decision in the above-entitled proceedings, finding that the Respondents had not engaged in the unfair labor practices alleged in the complaint and recommending that the complaint be dismissed in its entirety, as set forth in the attached Trial Examiner's Decision. Thereafter, the General Counsel and the Charging Parties filed exceptions to the Trial Examiner's Decision and supporting briefs, Respondents filed a brief in support of the Trial Examiner's Decision and a brief in answer to those of the General Counsel and Charging Parties, and the Charging Parties filed a brief¹ in reply to Respondents' answering brief.

¹ The Charging Parties' motion for leave to file such reply brief is hereby granted.

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Trial Examiner's Decision, the exceptions and briefs, and the entire record in this case, and hereby adopts the Trial Examiner's findings,² conclusions, and recommendations to the extent consistent herewith.

The Trial Examiner found, for the reasons set forth in his Decision, that the six Companies comprising the Association had effectively formed a multiemployer bargaining unit, which unit was accepted by the Union Charging Parties in the course of bargaining. He concluded that the lockout engaged in by the four Respondent Companies, following the Union's strike against the other two members of the Association, was a lawful act sanctioned by the Board's decision in *Buffalo Linen Supply Company*, 109 NLRB 447, affd. sub nom., *N.L.R.B. v. Truck Drivers Local Union No. 449*, 352 U.S. 818.

The Trial Examiner's Decision issued after the decisions of the United States Supreme Court in *American Ship Building Company v. N.L.R.B.*, 380 U.S. 300, and *N.L.R.B. v. Brown*, 380 U.S. 278, which restated the general guidelines applicable to lockouts, including those occurring in the context of multiemployer bargaining. The Board finds, for the reasons stated below, that the principles announced in those cases are controlling herein, and thus finds it unnecessary to pass on the Trial Examiner's factual conclusions that the Association existed, functioned, and was accepted by the Unions as a formal multiemployer bargaining unit.

Whatever the precise status of the Association, formed immediately prior to the start of the 1963 negotiations between the Employers and the Unions, it is clear that, at the least, it served as the designated bargaining representative through which its six members bargained jointly with the Unions during those negotiations. It is also clear that,

² The Respondents' request for oral argument is hereby denied, as the record and briefs adequately present the issues and the positions of the parties.

by June 5, all six Employers had reached an impasse with the Unions over certain of the economic items being negotiated. Whether the lockout engaged in by the four Respondent Companies is viewed as a direct response to the Unions' strike against the other two members of the Association, in order to preserve the integrity of the Association, or as economic action taken to further their own bargaining position, we find that such action is lawful under the decisions of the Supreme Court in *American Ship Building* and *Brown, supra*.

In *American Ship Building*, a single employer situation, the Court held that, "... an employer violates neither Section 8(a)(1) nor Section 8(a)(3) when, after a bargaining impasse has been reached, he temporarily shuts down his plant and lays off his employees for the sole purpose of bringing economic pressure to bear in support of his legitimate bargaining position." 380 U.S. at 318. The Court noted that an employer's use of a lockout for such purpose is not inconsistent with either the right to bargain collectively or the right to strike, that such a lockout is not inherently destructive of employee rights, and that the Board may not, therefore, dispense with an inquiry into the employer's motivation for its use under Section 8(a)(3). In this regard, the Court stated as follows:

As this case well shows, use of the lockout does not carry with it any necessary implication that the employer acted to discourage union membership or otherwise discriminate against union members as such. The purpose and effect of the lockout was only to bring pressure upon the union to modify its demands. Similarly, it does not appear that the natural tendency of the lockout is severely to discourage union membership while serving no significant employer interest.³

In *Brown*, the Court held that members of a multiemployer association could lawfully replace their locked out employees with temporary replacements to remain on an equal footing with the struck member of the unit who had

³ *American Ship Building, supra*, 380 U.S. 312.

elected to continue his business with the help of such replacements. Thus, the Court stated:

Continued operations with the use of temporary replacements may result in the failure of the whipsaw strike, but this does not mean that the employers' conduct is demonstrably so destructive of employee rights or so devoid of significant service to any legitimate business end that it cannot be tolerated consistently with the Act. Certainly then, in the absence of evidentiary findings of hostile motive, there is no support for the conclusion that Respondents violated Section 8(a)(1). 380 U.S. at 286.

In the instant cases, the four Respondent Employers, believing themselves part of a valid multiemployer bargaining unit along with the two struck Employers, closed their plants for the purpose of preserving the integrity of that unit, and in furtherance of the bargaining position advanced jointly for all six Employers by the Association. There is no contention that the Respondents "used the lockout in the service of designs inimical to the process of collective bargaining. There was no evidence and no finding that the [Respondents were] hostile to [their] employees banding together for collective bargaining or that the lockout was designed to discipline them for doing so."⁴ Even assuming, therefore, that the Respondents were mistaken as a matter of law with respect to either the establishment or the recognition of the Association as a multi-employer unit,⁵ we find that the principles announced by the Supreme Court in *American Ship Building* and *Brown* apply to the situation where, as here, two or more employers bargain jointly with a union, an impasse in negotiations is reached over a mandatory subject of bargaining, and the union strikes only some of the employers engaged in such joint bargaining. The subsequent lockout by the

⁴ *American Ship Building*, *supra*, at pages 308-309.

⁵ As previously noted, we do not pass on the correctness of the Trial Examiner's conclusions as to the establishment or recognition of such a unit.

nonstruck employers in that situation clearly lacks the discriminatory motivation required by the Court's holdings, while it does serve a "significant employer interest."

For the foregoing reasons,* we shall dismiss the complaint herein.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the complaint herein be, and it hereby is, dismissed in its entirety.

Dated, Washington, D. C., Nov. 16, 1965.

FRANK W. McCULLOUGH,
Chairman.

JOHN H. FANNING,
Member.

GERALD A. BROWN,
Member.

HOWARD JENKINS, JR.,
Member.

SAM ZAGORIA,
Member.

National Labor Relations Board

* Member Brown would affirm the findings and conclusions of the Trial Examiner and, on such basis, joins in dismissing the complaint.

TXD-(SF)-41-65
 Portland, Ore., Tacoma,
 Seattle, and Longview, Wash.

UNITED STATES OF AMERICA
 BEFORE THE NATIONAL LABOR RELATIONS BOARD

Division of Trial Examiners
 Branch Office
 San Francisco, California

Case No. 36-CA-1261

Case No. 19-CA-2652

WEYERHAEUSER COMPANY; CROWN ZELLERBACH CORPORATION;
 RAYONIER INCORPORATED; INTERNATIONAL PAPER COMPANY;
 AND ASSOCIATION and

WESTERN STATES REGIONAL COUNCIL No. 3, INTERNATIONAL
 WOODWORKERS OF AMERICA, AFL-CIO
 and

WESTERN COUNCIL OF LUMBER AND SAWMILL WORKERS,
 AFL-CIO

*Gordon M. Byrholdt, Richard J. Boyce, and Dale Cub-
 bison, for the General Counsel.*

*Charles F. Prael, of San Francisco, Calif., Guy Farmer,
 of Washington, D.C., and Judson T. Klingberg, of Long-
 view, Wash., for the Respondents.*

*A. C. Roll, of Roseburg, Ore., for the Charging Party in
 Case No. 36-CA-1261.*

*George J. Toulouse, Jr., of Seattle, Wash., for the Charg-
 ing Party in 19-CA-2652.*

Before: James R. Hemingway, Trial Examiner.

TRIAL EXAMINER'S DECISION

History of the Proceedings

Case No. 36-CA-1261 was initiated by the filing of a
 charge on June 13, 1963, by Western States Regional Coun-
 cil No. 3, International Woodworkers of America, AFL-

CIO, herein called IWA, and a group of local unions affiliated therewith, against St. Regis Paper Company, United States Plywood Company, Weyerhaeuser Company, Rayonier Incorporated, International Paper Company, Crown Zellerbach Corporation, and a respondent called simply, Association, alleging violations of Section 8(a)(1), (3), and (5) of the National Labor Relations Act, as amended, 29 U.S.C. Section 151 et seq., herein called the Act. An amended charge was filed by the same Charging Parties on December 9, 1963, against the four companies named in the caption hereof and the Association, alleging violations of Section 8(a)(1) and (3) of the Act.

Case 19-CA-2652 was initiated by the filing of a charge on June 14, 1963, by Western Council of Lumber and Sawmill Workers, AFL-CIO, herein called LSW, and several district councils affiliated therewith, alleging violations of Section 8(a)(1), (3), and (5) of the Act. An amended charge was filed by the same Charging Parties on December 2, 1963, against International Paper Company, Weyerhaeuser Company, Crown Zellerbach Corporation, and the Association, alleging violations of Section 8(a)(1) and (3) of the Act.

On December 13, 1963, the General Counsel of the National Labor Relations Board, by the Regional Director for the Nineteenth Region, issued an order consolidating cases, a consolidated complaint, and notice of hearing. The order consolidated the two cases, 36-CA-1261 and 19-CA-2652. The consolidated complaint, naming, as Respondents, the four companies named in the caption hereof and the Association, alleged in substance that the Respondents joined with United States Plywood Corporation and St. Regis Paper Company to form Respondent Association for the purpose of representing the six employers in bargaining with IWA and LSW, gave notice thereof to IWA and LSW, stating their desire to bargain with IWA and LSW as a multiemployer group through Respondent Association, and, between April 24 and June 1, 1963, IWA and LSW each separately met and explored with Respondent Association and its members the efficacy of negotiating with said members on the basis of a multiemployer bargaining unit.

Following certain detailed allegations concerning the negotiations, the complaint alleged that on about June 5, 1963, IWA and LSW each struck the operations of United States Plywood Corporation and St. Regis Paper Company at which its respective local unions were designated representatives of their employees, and that, in reprisal for the strikes against the United States Plywood Corporation and St. Regis Paper Company, Respondents Weyerhaeuser, Crown Zellerbach, Rayonier, and International Paper closed their plants and operations and locked out their employees at said locations. In conclusion, the complaint alleges that by such lockout "at a time when a valid multi-employer unit had not been established" Respondents discriminated with respect to tenure of employment and terms and conditions of employment of employees in violation of Section 8(a)(3) of the Act, and, by the same conduct, interfered with, restrained, and coerced employees in the exercise of their rights, guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

On January 13, 1964, following an extension of time in which to file an answer, Respondents filed their answer in which they admitted and denied certain allegations of the complaint and alleged that their shutdown of operations and locking out of employees was for the sole purpose of defending against the "whip saw tactics" of the Charging Unions and was for the purpose of preserving the multi-employer bargaining basis from disintegration.

On March 3, 1964, the General Council issued an amendment to the consolidated complaint in which he deleted various allegations of the original complaint so as to eliminate any reference to United States Plywood and St. Regis as members of the Association and to omit all allegations concerning the formation of, or operation of, the Association. The effect of this amendment was to allege, in effect, that because the Charging Parties had struck United States Plywood and St. Regis, Respondents locked out their employees. Respondents did not file an amended answer, and on April 13, 1964, the General Counsel issued a "reply to Respondents' answer" in which he admitted so much of the Respondents' answer as alleged that, in response to the

strike against United States Plywood and St. Regis, Weyerhaeuser, Crown Zellerbach, Rayonier, and International Paper, beginning on about June 7, 1963, temporarily shut down operations and locked out employees at certain locations. It denied each and every other affirmative averment in the answer.¹

Pursuant to notice, a hearing was held in Seattle, Washington, before James R. Hemingway, Trial Examiner, on various days between April 14 and May 25, 1964. At the opening of the hearing, Respondents renewed a motion previously made to sever the two consolidated cases.² The motion was denied.

After the General Counsel had examined the voluminous documents produced by Respondents in response to subpoenas,³ the General Counsel rested his case without offering any evidence, relying on the undenied allegations in the pleadings, as amended. Respondents thereupon moved to dismiss. Following a full consideration of arguments made by counsel and a study of briefs submitted by the General Counsel and the Respondents, the Trial Examiner denied the motion.

Respondents thereupon proceeded to adduce evidence designed to show a justification for the lockout. At the close of Respondents' case, the General Counsel moved for "judgment upon the pleadings" or a peremptory decision

¹ The General Counsel's formal documents do not indicate how this reply to Respondents' answer was served upon Respondents. Respondents, however, did not claim that they had not received the General Counsel's reply to Respondents' answer, and its existence was recognized in argument of counsel. No question was raised as to the propriety of the use of a reply.

² The Respondents' motion had been made on January 13, 1964, and was referred to Trial Examiner Maurice M. Miller for ruling. On January 28, 1964, Trial Examiner Miller issued his ruling, denying Respondents' motion. Because of the receipt by said Trial Examiner of Respondents' reply to General Counsel's response in opposition to Respondents' motion to sever the cases on the day following the issuing of his ruling, Trial Examiner Miller reconsidered his ruling, but, on February 20, 1964, he issued his ruling again denying Respondent's motion.

³ A motion to quash the subpoenas was made at the hearing but was denied after full consideration by the Trial Examiner.

on the evidence. When the Trial Examiner, however, refused to rule on the motion instanter and gave the General Counsel a choice of proceeding with rebuttal evidence or of having the hearing closed and having the ruling on his motion reserved and ruled on in the Trial Examiner's Decision, he chose to adduce rebuttal testimony.

At the close of the hearing, the parties stated their intention to file briefs with the Trial Examiner, and time was fixed for the filing thereof. This time was later extended upon request. Within the extended time, briefs were received from all parties and have been fully considered.

From my observation of the witnesses and upon the entire record in the case, I make the following:

Findings of Fact

I. The business of Respondents

Respondent Weyerhaeuser is a Washington corporation with its principal office at Tacoma, Washington. Respondent Crown Zellerbach is a Nevada corporation with its principal office at Portland, Oregon. Respondent Rayonier is a Delaware corporation with its principal office at Seattle, Washington. Respondent International Paper is a New York corporation with its principal office at Longview, Washington. Respondent Association, organized by the aforesaid four Respondents in conjunction with United States Plywood and St. Regis Paper Company, is an unincorporated association formed on about April 12, 1963, with an object of bargaining collectively with the two charging unions which represent employees at various of their plants.

Respondents Weyerhaeuser, Crown Zellerbach, Rayonier, and International Paper, each of which is engaged in logging operations and the manufacturing of lumber products, did individually, during the past 12 months prior to the issuance of the complaint, which period is representative of all times material herein, sell lumber products manufactured in the State of Washington to customers outside the State of Washington, in an amount in excess

of \$50,000. No issue is raised on jurisdiction and I find that Respondents are engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. The labor organizations involved

IWA and LSW are now, and at all times material herein have been, labor organizations within the meaning of Section 2(5) of the Act. Various of their locals represent employees of said Respondents and have collective bargaining contracts with them.

III. The unfair labor practices

A. *Discrimination; interference, restraint and coercion*

1. The issue

The principal question presented for resolution is whether a lockout of employees by the four corporate Respondents, in 1963 during the progress of a strike by the charging unions at two other employers' operations, was an exercise of a legitimate defensive measure designed to maintain the solidarity of a valid multiemployer bargaining group (as Respondents contend the six-member Association is) or whether the lockout was unlawfully used as an offensive measure.

2. Background

(a) *Collective bargaining in the northwest lumber industry*

The charging parties, herein called IWA and LSW, or merely the unions, are the principal collective bargaining representatives for employees at various plants or branches of the corporate Respondents, of St. Regis, of U. S. Plywood, and various other lumber companies in California, Oregon, Washington, Idaho, and Montana. Collective bargaining contracts as of the years 1961 to 1963 existed between locals of IWA and LSW, on the one hand, and a

corporate subdivision of the various companies involved here.⁴

Collective bargaining in the northwest lumber industry, as between a company and a union, has, for sometime, been engaged in on more than one level. Subjects peculiar to one of the corporate subdivisions or to a local union of IWA or LSW representing the employees in such subdivision have usually been bargained at the local level (i.e., by a company manager and the local's bargaining committee). Matters of more general union and company concern are bargained at a higher level. This higher level has varied through the years. A local of LSW, for example, might designate a district council to bargain on its behalf for matters of more general interest, and the district council, in turn, might redesignate the more inclusive body, Western Council, as bargaining agent. IWA has bargained on matters of general concern through its Western States Regional Council No. 3. Bargaining by an employer at the higher level would be conducted by such as a director of industrial relations, by a corporate officer, or by an employer association.

Employer associations in the northwest lumber industry have been formed for a number of years on varying lines of organization and authority. In rare instances, an association might have a contract, uniform as to all members, signed by the association itself.⁵ In most instances, however, the contract, whether reached through negotiations on the branch or plant level, the company level, or the association level, has been a contract between local unions and the particular employer or subdivision thereof. Association bargaining usually resulted in a settlement agreement or recommended contract, which, if adopted individually by members of the association was signed by them as a separate contract.

Although each year's contract might be incorporated in a new document, the contracts usually were not completely

⁴ The subdivision, depending on its character, is called a branch, a division, an operation, a plant, a mill, or other portion of a company.

⁵ This was true of the Columbia Basin Loggers Association, which dissolved in the 1950's.

renegotiated. In practice, the local contracts would continue in part, at least, unchanged from year to year except to the extent altered as a result of collective bargaining on a local or a higher level. Customarily, the contracts between the locals and employers either expressly or implicitly provide that an automatic renewal results at the end of the term unless a party desiring termination or change gives 60 days notice before the expiration date. In practice, although not expressed as a requirement in the contracts, the party desiring a new or amended provision specifies the contract provision desired to be amended—that is, he “opens” on a particular contract topic—when giving his 60-day notice. Thereafter, bargaining, at whatever level, in practice, would be limited to those subjects mentioned in the notice of opening. The remainder of the contract would continue unaltered. Hence, there would usually be no bargaining on subjects not opened by proper notice.

After serving notice of opening on an employer, a local union would indicate whether it would do its own bargaining or whether it would delegate authority to bargain to a higher union body. IWA locals’ delegations would be to their regional council. LSW locals would delegate, if at all, to their district council, which in turn could redelegate to the regional council. Subjects for bargaining on an industry basis have usually been selected at a meeting of union delegates, such as a regional convention. Local unions would then be supplied with a list of “industry openings,” or proposed subjects for bargaining on an industrywide basis. When, thereafter, a local would serve notice of opening on the employer, it would include such subjects which had been selected at the convention in addition to any sections in its individual contract in which it desired change. It is customary for the local union to delegate authority to bargain on subjects selected at the convention while reserving authority to itself on subjects limited to amendment of its local union contract only. The notice of opening served by a plant manager on a local, or a later communication, might delegate bargaining on certain subjects to a company representative representing all

plants or branches while reserving other subjects for local (divisional or operational) bargaining, where the plant manager would bargain for the company. At the higher level, whether that would be the corporate officer in charge or an association of employers, on the one hand, and the division or region for the union, on the other, the representatives would bargain only on subjects specifically delegated to them.

In 1960, there was formed an employers' association called Timber Operators Council, herein called TOC, which conducted bargaining negotiations with unions on behalf of employers who delegated authority to them for that particular year. Some of the corporate Respondents were members of TOC and had occasionally bargained through it. TOC had authority to bargain only on those subjects which were opened and on which bargaining was delegated to it. Before 1963, employers who had delegated such authority to TOC reserved the right to withdraw that authority at any time, before or after settlement was reached, and were then free to carry on their own negotiations.* The authority which was delegated to TOC was sometimes limited to subjects less than those which had been opened by one or the other of the negotiating parties. So, for example, an employer might authorize TOC or another association to bargain for him on such subjects as wages or hours of work, while reserving to himself or delegating to another representative bargaining on matters peculiar to a local operation or those on such selected topics as union security, pensions, or health and welfare.

No industrywide strike had occurred in the northwest since 1954. Since that date, strikes in the industry have

* In the 1961 negotiations between TOC and IWA, several of the Respondents who were later members of the Respondent Association, withdrew from TOC bargaining before completion, of negotiations, and IWA was then obliged to bargain with each of those companies separately. Those companies did not give TOC authorization to bargain for them generally on 1963 openings. The form of delegation of authority to TOC which was used in 1963 stated that the employer was not privileged to withdraw from negotiations before settlement was reached. However, TOC still was negotiating in that year for a settlement agreement which was optional with employers.

been limited in scope to what are termed selective strikes or, in union parlance, "single-shotting." This means that a bargaining union, whether bargaining with an employers' association or with individual employers, might choose to strike one or two employers or plants rather than all members of an association or all plants or operations of individual employers in the area. The first settlement made by regional representatives of a union with an employer or with an association on industrywide subjects of negotiations tended to set a pattern for settlements made thereafter, especially if the employer reaching the early settlement was an association of employers or a large company in the industry. I infer from all the evidence that, from a union's point of view, single-shotting had the advantage not only of bringing about an early (or precedent) settlement with the struck employer or employers but also made possible the financing of strikes against individual employers by the assessment of employees still working at unstruck companies or operations to furnish financial assistance to employees who were on strike.

3. Formation of the Association

Beginning in the spring or early summer of 1962, and from time to time thereafter Lowry Wyatt, a vice president for Respondent Weyerhaeuser, conducted informal discussions with officials of various timber and lumber-processing companies having operations in the Pacific Northwest with sufficiently common interests to explore the possibility of forming an association of employers which would bargain collectively with unions on a basis of being bound from the start of negotiations to carry negotiations through to a common settlement which would be binding on all. In the latter respect, particularly, this type of organization would differ from TOC and most other associations in the industry, both past and present, whose settlements were usually only recommendations for contracts which might or might not be accepted by individual employers represented. Wyatt testified that in his view, the existing bargaining format was unable "to come to grips with the real problems of the industry" which were: increasing competition, increasing

costs of labor and other things, and an insufficient increase in market prices. One of the changes which might, from Weyerhaeuser's point of view, improve the situation, was an agreement which would grant employers the privilege of operating on a three-shift day, 7 days a week, with no employee working more than 40 hours a week, and with no premium pay for Saturday or Sunday work, as such. This was sometimes called a variable workweek. Wyatt found some interest in the formation of such an association on the part of representatives of other corporations, including (in addition to those who later formed the Association) Scott Paper Company, Simpson Timber Co., and, to a lesser extent, Georgia Pacific Corporation, and Kimberly-Clark Co.

Investigatory meetings were held beginning in late September 1962, and studies and reports were made to determine the practicability of forming an employers' association and of functioning as such, together with the legal technicalities involved, particularly with reference to the legitimate use of a lockout in the event IWA or LSW should resort to selective strikes against less than all members of such an association.⁷ Participating in such studies and meetings were representatives of the six companies who later became the Association and two others who later decided not to join. The representatives of the participating corporations were designated a committee. In December 1962 the committee made a written report, and during January and February of 1963, meetings of this committee were held and tentative drafts of an association agreement were drawn. In February 1963, the committee requested that Wyatt ascertain the attitude of IWA and LSW toward bargaining with such an association before proceeding further.

Pursuant to such request, Wyatt, on February 18, 1963,

⁷ The results of such a study were incorporated in a subcommittee report which compared the advantages and disadvantages of various cooperative methods of employer bargaining, including parallel bargaining, joint bargaining, and formal or informal association bargaining. Accompanying this study was a draft of legal opinions expressed in question and answer form.

met with Harvey Nelson, President of Western States Regional Council No. 3 of IWA. Wyatt's and Nelson's accounts of this conversation differ in only one respect. Wyatt testified that he told Nelson that the association being contemplated would be a "fully-bound" multiemployer association, meaning bound by the settlement reached as well as bound not to withdraw before settlement. Nelson testified that mention of "fully-bound" was not made at that time. If Wyatt used the quoted adjective, Nelson could have been thinking in terms of his 1961 experience with TOC when several major employers withdrew before negotiations had been concluded and he may thus have pictured an association where this would not happen, missing the added significance of "fully-bound." In any event, Wyatt expressed to Nelson his ideas regarding the advantages to be attained in having an association of major companies in the northwest lumber industry, mentioning, among other things, that he felt that this kind of association could best discuss such matters as hours of labor in a situation where new machinery and equipment work longer hours or more days a week without the penalty of overtime payment. Nelson asked and was given names of the companies such as might be included. Wyatt named some of the corporations interested. Nelson named some companies that he thought should be included in such an association. Wyatt said that if this association were formed, there would be certain items that they would wish to reserve for individual company negotiation. He said that he doubted that Weyerhaeuser would be willing to insert the subject of union security into group bargaining,⁸ and he said he doubted the wisdom of including in association bargaining such subjects as pensions and health and welfare.⁹ Wyatt told Nelson that he respected the latter's opinion and wished to

⁸ At that time, most of the interested employers already had union-shop contracts. Weyerhaeuser had an agreement to include an agency shop provision if found valid by the United States Supreme Court.

⁹ One reason for such exclusion was that some companies were covered by trust agreements along with other companies, not members of the Association, and any change in the provisions of such trust would better be negotiated through an agent representing all such companies.

obtain it concerning the formation of such an association before any further meetings were held with representatives of other companies. Nelson told Wyatt that he could not see that the reservation of the specific subjects mentioned would create any undue problem and that he saw nothing basically wrong or unsound in the ideas expressed by Wyatt. He said that, in view of the changes in the industry, it could be beneficial for all major companies in the industry to get together on general negotiations. According to Wyatt, Nelson said that he would discuss the matter with others to see if there were any objections.¹⁰

On the following day, February 19, 1963, pursuant to previous arrangements, Wyatt met with Earl Hartley, Executive Secretary of the Western Council, LSW. Wyatt described the proposed association as a fully-bound group of employers and outlined the reasons therefor as he had to Nelson. He also said that, during the first year at least, he felt that pensions, health and welfare, union security and local issues should not be brought to the association table for bargaining. Hartley commented that Wyatt was setting up an Arlington Club committee with teeth, alluding to a group of employer representatives who met outside of their companies' individual bargaining with a union to reach a consensus on the position which each would take in separate negotiations with the union. Wyatt gave an explanation of what he conceived to be the difference between the contemplated association and an Arlington Club committee. Hartley said that he, personally, saw no problem in what Wyatt had outlined but that he wished to talk with others before giving an opinion and that he would telephone Wyatt to let him know of the LSW reaction. A few days later Hartley telephoned Wyatt and said that he had been "east of the mountains" (referring to the Cascades, east of which the Western Region of LSW had several locals) and in various parts of his territory and had talked with a number of his people, and he told Wyatt that he and the people he had spoken with looked with favor upon the formation

¹⁰ Nelson did not mention this statement in his testimony. It is possible that Wyatt, in retrospect, confused this conversation with the one he had with Hartley.

of an association such as Wyatt had described. To this time, of course, only generalities had been discussed, not details of the proposed association's structure or extent of authority. One reason for the favorable reaction of LSW toward the proposed association lay in the fact that in 1962 it had been subjected to a number of raids by other unions, principally by the Teamsters, and it foresaw a benefit from a larger bargaining unit which might check raids and piecemeal decertifications. One of the persons consulted by Hartley was Daniel Johnston, an economic adviser for LSW. Hartley was unable to give Johnston the details of the proposed association, but on the basis of the general idea of such an association, Johnston commented that the idea was "exactly the thing we were trying to accomplish" and that LSW should do everything it could to help it materialize. He advised Hartley, however, not to recognize or bargain with the Association until they knew more about the structure and purpose of the Association.

Wyatt reported to company representatives at a meeting on February 27 that the reaction of both unions had been favorable and recommended formation of the Association. Simpson and Scott, among others had been contemplating formation of an association, not wishing to be bound to a common result, withdrew at this meeting leaving six interested companies. The remaining six express concern over ability to function without a greater number, and they made futile efforts to enlist other companies, Wyatt personally being assigned to attempt to interest Georgia Pacific and Kimberly-Clark.

The employers had advance information that IWA and LSW would be requesting a 3-year contract in the coming bargaining, and the employers anticipated that wage demands would be high because the unions had failed to procure a wage increase in the last negotiations as a result of which LSW had never closed those negotiations. In view of both these expectations, among other things, the employers' representatives decided that formation of an informal association was desirable.

Contracts between the six companies and the two unions, for the most part, had a terminal date of June 1, 1963, and

in order to prevent an automatic renewal, anyone wishing changes was required to serve notice of opening on the other contracting party on or before April 1, 1963. Customarily, notices of opening by the companies were sent by the individual plant or branch manager to the local union representing employees at his operation, and, conversely, the local unions sent notice of their openings to the plant manager. In order to attain uniformity with respect to general union openings, the regional office (or district council perhaps in the case of LSW) would notify local unions in their territory of the general subjects on which the unions wished to negotiate, and the locals as a rule would include those (along with local openings they wished to make) when they notified the plant manager. Later, the locals would serve notice on the plant manager indicating on which of these openings the local was to be represented by district or regional IWA or LSW for bargaining. Normally the company management notified the union of the company openings. Sometimes companies would instruct managers, to open on certain subjects. In an effort to achieve uniformity in openings, the six companies, at a meeting in March 1963, approved a form of uniform openings, consisting of the three previously mentioned topics—hours of labor, overtime, and grievance procedure—with a brief explanation of the change requested. Apparently, however, the form was either ignored or was made available too late and after opening notices had already been sent by some branches of several of the companies, for only Weyerhaeuser and International Paper appear to have used the recommended form and opened uniformly on the aforementioned three topics for all their operations involved. U. S. Plywood failed to make any openings at one operation, and its openings at other operations varied, none including all three of the uniform openings used by Weyerhaeuser and International Paper. St. Regis opened all contract articles. Rayonier opened at two of three operations (later covered by the association agreement) on hours of labor and standing committees. At the other, it opened on grievances.

The locals of IWA and LSW made timely service of notice of their openings on the various managers. These included both those subjects peculiar to the contract of the local and those agreed to at the higher level as industry-wide aims. These will be detailed later under the respective meetings between IWA and LSW, respectively, and the Association.

During the morning of April 12, 1963, Nelson spoke with Wyatt on the telephone and asked for dates for contract negotiations between IWA and Weyerhaeuser. When they had agreed to meeting dates of April 24 to 26, 1963, Wyatt told Nelson that he would be attending a meeting that afternoon regarding the formation of an association, and he asked whether, in the event the association was formed, the foregoing dates could be used for association bargaining. Nelson agreed that they could.

At the meeting of representatives of the six companies (who were later to form the Association) that afternoon, it was learned that Kimberly-Clark was definitely not interested in joining an association and that Georgia Pacific was still undecided. U. S. Plywood began to exhibit misgivings about joining. Wyatt told the other representatives that, if U. S. Plywood backed out, the group would be too small a segment of the industry to warrant Weyerhaeuser's participation. U. S. Plywood finally agreed to participate if the other five did. A final draft of an agreement for organization of an association was approved and there was tentative agreement on signing it.

Following the afternoon meeting of April 12, Wyatt telephoned Nelson to inform him that an association had apparently been formed and gave Nelson the names of the six companies involved.¹¹ Wyatt asked Nelson for a post-

¹¹ The General Counsel points to the less than positive manner in which Wyatt notified Nelson of formation of the Association. I consider this not unusual since the written agreement had not yet been signed. Wyatt testified that during a recess in the meeting, representatives of U. S. Plywood, who were present, telephoned their home office and reported back that U. S. Plywood would join if the other five companies did. Wyatt's telephone call to Nelson could have taken place during the recess. In any event, I conclude that Wyatt's indefiniteness was dictated by caution.

ponement of negotiations because the Association was just forming. Nelson said that IWA was already meeting with others in the industry and if there were a postponement of the dates set for the Weyerhaeuser or Association meetings, Nelson might have to set dates for a "second-go-around" with those involved in current meetings and that he would not wish to do this and he thought this might not be in the best interests of the IWA-Association bargaining. Wyatt concurred and withdrew his request for postponement.

Six copies of the association agreement were circulated among the six companies and they were all signed between April 15 and April 22, 1963,¹² by each of those companies, were returned to Portland on April 23, and were distributed among the members who assembled there for the meeting with IWA on April 24.

When formation of the Association appeared certain, Wyatt telephoned Hartley of LSW, informed him of formation of the Association, and proposed bargaining. Hartley asked and was given the names of the association members.¹³ When Hartley asked for meeting dates, Wyatt referred him to E. Manchester Boddy (pronounced Bodie), industrial relations director for Crown Zellerbach, who had been elected secretary of the Association.

At the April 12 meeting, the parties had agreed on a standard letter by which each was to notify IWA and LSW of its delegation to the Association of its authority to bargain. This letter read as follows:

This is to advise you that the undersigned Company is a member of a voluntary multi-employer Association, herein called the "Association" comprised of the following named employer Companies in the wood products industry:

¹² The order of signatures by date was St. Regis, Weyerhaeuser, International Paper, U. S. Plywood, Rayonier, Crown Zellerbach.

¹³ There is some evidence indicating that Wyatt may also have read a list of the operations of the various companies which would be included in group bargaining. In view of the uncertainty, I make no finding thereon.

Crown Zellerbach Corporation
International Paper Company, Long-Bell Div.
Rayonier, Inc.
St. Regis Paper Company
United States Plywood Corporation
Weyerhaeuser Company

We hereby notify you that this Company hereby delegates to the Association authority to bargain collectively on and with respect to any revisions of the existing agreements between your Union and this Company at its operation named on the attached list, pertaining to all matters which involve the wages, hours or other conditions of employment of employees of this Company represented by your Union at such locations, other than the subjects of (1) pensions, (2) union security, (3) health and welfare, and (4) those issues which have been customarily subject to local negotiations.

The subjects of pensions, union security, health and welfare, and local issues, and all matters pertaining thereto have been and are hereby specifically reserved and excepted from the delegation mentioned above, and if properly opened for bargaining, shall be subject to collective bargaining negotiations between your Union and this Company, separate and apart from any collective bargaining conducted between your Union and the Association in accordance with the delegation aforesaid.

We further notify you that this Company through the Association desires to change the terms of the said existing agreements with respect to (i) hours of labor, (ii) overtime, and (iii) grievance procedure, including, without limitation all matters relevant thereto.

The Association and this Company will be prepared to meet with you for the purposes indicated at mutually convenient times and places. Please let us know your desires in such regard. The secretary of the Association bargaining committee is:

Mr. E. M. Boddy
Crown Zellerbach Corporation
1100 Public Service Building
Portland 4, Oregon

All notices and communications from your negotiating committee to the Association may appropriately be directed to Mr. Boddy. Notices and communications intended individually to this Company may be forwarded to the undersigned.

4. Structure and authority of the Association

The Association's agreement covered the following points: its objectives; the procedure by which additional members might join; the subjects for which the Association would bargain; the right of a company to reserve subjects of bargaining and the procedure to be used in making such reservations; bargaining procedure (including "participation" by each member and a provision for determination of decisions by a 75 percent vote of the membership, each member, regardless of size, having one vote); a provision requiring members to amend their respective contracts with the local unions involved so as to incorporate the agreement resulting from the bargaining; a provision requiring that, if one or more member companies or subdivisions thereof covered by the agreement should be struck by a union with respect to the subjects before the Association and union for negotiation, all other members of the Association would thereupon close those of their operations which were listed in the association agreement; a provision for payment of expenses; and a provision for withdrawal of members from the Association by giving notice to the others and the union before March 1 of any year.

Attached to the association agreement was a list of plants, branches, divisions, or operations of each member intended to be represented by the Association in collective bargaining, and following the names of each of such company subdivisions was the number of the local union of IWA or LSW which represented employees at that location. These subdivisions were not all the subdivisions of the several com-

panies and were not, in some cases, all those at which a local of IWA or LSW was the collective bargaining representative. All those listed, however, were west of the Cascade Mountains in Washington and Oregon, along with a few plants or operations in Northern California.

The articles of the association agreement made no provision for a name for the Association. The members simply referred to it as the Association, which it will hereinafter generally be called. The unions sometimes called it the Big Six, a name which may appear hereinafter from time to time.

5. Notice to unions of formation of the Association

Following the verbal agreement to form an association and before the last signature was appended to the association agreement, each of the six companies sent to IWA and LSW copies of the form letters heretofore quoted giving notice of the formation of the Association and of the delegation of authority by each. The General Counsel points to the fact that, with respect to three of the companies—U. S. Plywood, Rayonier, and Crown Zellerbach—these openings, or some one or more of them, were new, as those companies had not used the uniform opening notice used by Weyerhaeuser and International Paper, whereas St. Regis had opened all contract articles; so the three openings listed in the St. Regis letter of delegation of authority to the Association was a limitation on its previous statement of opening. For reasons hereinafter stated, I find this apparent discrepancy to be unimportant. Each company attached to the letter of delegation a list of its operations for which the Association was authorized to bargain.

6. Prestrike negotiations

(a) Explanation of findings of what transpired at bargaining sessions

Three principal witnesses testified to the substantive facts of the case, including those concerning bargaining sessions. Lowry Wyatt, chairman of the Association's negotiating committee and a vice president of Respondent

Weyerhaeuser, gave testimony on behalf of the Respondents. Harvey Nelson, president of the Western States Regional Council of IWA, was called by the General Counsel to testify in support of his case as to the IWA. On behalf of the LSW case, the General Counsel called only Daniel Johnston, an economic adviser and consultant of LSW who participated on that union's behalf in the contract negotiations between that union and the Association. In general, the accounts of Wyatt and of the two principal witnesses for the General Counsel coincided to a reasonably to-be-expected degree and their testimony has in most instances been accepted as fact. However, each of the three principal witnesses was understandably partisan. Realizing that the memory of spoken words may be colored by personal interpretations in a recounting of conversations, I have compared the testimony of each with the other as well as against other evidence made available for this purpose. Among the exhibits in evidence are notes taken by representatives of the Association and by representatives or agents of the charging parties at various negotiating sessions.¹⁴ An examination of these notes and a comparison of their contents with the testimony of the foregoing three principal witnesses discloses that statements made at bargaining sessions by the foregoing several witnesses were, in some cases, less favorable to the cause of the party whose representatives prepared the notes than was the testimony of the witnesses themselves. In some instances, quite a different flavor is given by the notes. In making my findings of what transpired at the various meetings between the Association and the respective charging parties, I have attempted to make findings of the actual occurrences to the extent material hereto and to the extent possible. Where I have relied on the notes of the negotiating meetings, I have done

¹⁴ Some of the original notes made by Wyatt at bargaining sessions were offered and were received. Others of Wyatt's notes were available but were not offered by either side. The original notes of the secretary of the Association were introduced in evidence by the General Counsel along with the later account of meetings prepared from those notes. Also in evidence are notes taken by representatives of IWA and LSW at bargaining sessions. (Exhibits G. C. 50-63, 75, 76; R. 383-4, 398, 400-6)

so with a view to eliminating confusion apparent in the testimony of the witnesses, to modify testimony that appeared to place a somewhat unbalanced slant on what was said, and to bring out statements omitted in the testimony which were in the nature of admissions against interest.

(b) Prestrike meetings between IWA and the Association

At the appointed time on April 24, 1963, Nelson, with members of his committee, met with committee members of the Association. Wyatt introduced the other members of the association committee (one for each company) and named the companies they represented. Present also but in another row of seats were officials of the various member companies. Wyatt identified himself as chairman of the association committee, and Boddy as secretary. He explained that the company officials behind the committee were present to aid the committee with information and to finalize any agreement that might be reached. Then Wyatt opened the meeting with a statement about the formation of the Association, referring to the letters sent to the IWA by each of the companies giving notice of the formation of the Association and of their delegation of authority to the Association with the limitations noted in the letter. Wyatt said that they were present to negotiate with the IWA on those subject matters on which the Association had authorization, that on those subjects they were prepared to reach a binding agreement, and that the matters settled would not be negotiated elsewhere. Nelson asked if Wyatt was saying that if the union committee were to reach an agreement with the Association on hours of labor, that would foreclose further negotiations at a local level on the same subject with U.S. Plywood. Nelson explained his question by going through the various U. S. Plywood openings on the same subject.¹⁵ He also pointed out St. Regis' opening of

¹⁵ There were openings by branches of the company served on the local unions regarding "hours of labor" which involved a provision for exemption of Saturday as an overtime day as such and elimination of overtime pay on Saturday for anyone who had missed time during the Monday through Friday period. One local union also had opened on hours of labor in certain respects. In both instances these openings were treated as local and were not delegated to higher authority.

all contract articles. Nelson said that IWA did not wish to be put in the position in which they found themselves in 1961 when negotiating with TOC when several employers had withdrawn and the IWA had to negotiate at different levels. Wyatt stated that he was not familiar with the U. S. Plywood openings and, to discuss that and the St. Regis openings, he asked a caucus. One was held and, on return to the meeting, Wyatt reviewed the U. S. Plywood openings and stated that there would be no duplication of negotiations which took place between the two committees. Apparently this was not clear enough for the IWA, and Nelson asked for a clarification of each company's openings so that any reservations for separate company bargaining would be clearly stated before negotiations commenced. Wyatt agreed that the committee would study the openings overnight and would report in the morning and that St. Regis would give its answer direct.¹⁶

Because there was still time to utilize that day, someone suggested that each side explain its openings. Nelson began by saying that he realized that the subject of health and welfare would not be bargained with the Association, but he wished to let some of those present (with whom there would be separate negotiations on health and welfare) know that he considered the subject as carried over from 1961 negotiations and that the IWA would ask a flat \$15 per month per employee for health and welfare coverage.¹⁷

He then outlined the IWA openings:

- (1) A 3-year contract.

Nelson said that he thought this would be of benefit to both the IWA and the employers, and he did not wish the Association to take the position that the union was asking for this on the basis of sacrificing any wage demand in order to get it.

¹⁶ It did so by letter to Nelson dated April 29, 1963.

¹⁷ Although the subject of pensions was another IWA opening which had been delegated for bargaining to the Regional Council, Nelson did not mention this, presumably because he agreed to the exclusion of pensions from the association bargaining.

(2) Wage increase.

(a) A 40 cent wage increase to be given—20 cents across the board in 1963 and 10 cents each in 1964 and 1965. Nelson reviewed bargaining history in the industry since 1958 in explaining a need for such increase.

(b) A bracket increase.

This was a special increase desired for skilled workers. Nelson said he had no specific proposal but that the union had ideas on the subject and would like to hear the employers' ideas. He suggested setting aside a certain amount of money to be used locally for skilled groups, with a possibility of holding some of it in reserve for a time, with a final date for disposition of all bracket money funds.

(3) A request for a committee to set up machinery to meet problems of automation (i.e., the effect of automation on employment).

(4) Travel-time pay for loggers.

Nelson said that this was not a new request but that it was up for an actual settlement that year. His idea was to give the loggers pay for the great amount of time spent in travel without considering it as time worked, and thus it would be unrelated to vacation, pension, overtime, or other credits.

Following Nelson's presentation of demands, Wyatt, after a few preliminary statements described the openings of the employers:

1. Hours of labor.

(a) A contract adjustment to give employers the right to run on a 7-day, 3-shift operation without an overtime penalty for Saturday and Sunday as such.

(b) A right to schedule maintenance employees on a schedule other than Monday through Friday without Saturday's being an overtime day as such.

2. Overtime.

The employers wished to have a clarification of the subject of the right to refuse to work overtime. This was not directed at the right of individuals to refuse to work overtime but at concerted refusal to work overtime where the concerted refusal was to gain an objective not related to working overtime.

3. Grievance procedure.

The employers desired a provision that employees would continue to perform the work assigned during the processing of a dispute or grievance. This request related to the introduction of new equipment or a change in job duties where the employers sought assurance of the continued performance of the operation pending settlement of a dispute arising out of such changes.

Following Wyatt's presentation, Nelson commented on the employer openings and asked questions. Then he requested that the Association prepare a statement of the employers' proposals in writing. He iterated that he was not satisfied regarding what was to be handled on a local level and that this would require further talk. At this point, the meeting adjourned until the following day.

The meeting had been set for 9:30 a.m. on April 25, but the Association asked for further time, so the meeting did not commence until afternoon. Upon meeting, Wyatt commenced by saying that the confusion on openings had occurred because of shortness of preparation time and that in the future any overlapping of openings would be avoided by the Association. A representative for U. S. Plywood said that U. S. Plywood would be bound by any agreement reached between the Association and IWA but that it had certain points on hours of labor reserved for local bargaining. Nelson said that this appeared to be a change in the statement made on the 24th. He said that all negotiations on the same subject matter had to take place at a single place.

Nelson then asked the Association for the language of its proposals on its openings. Wyatt read or handed to the IWA the Association's written contract proposals on hours of labor, overtime, and grievance procedure. After a brief comment on these, Nelson urged the Association to give consideration to the IWA contract requests and to define and separate the local issues and authorizations. The meeting adjourned until the following day.

The parties met as scheduled on April 26. Wyatt again apologized for the seeming conflict between general and local openings and promised it would not occur in future openings. To avoid the difficulty for the current year, Wyatt proposed that all U. S. Plywood openings on hours of labor and all local unions' openings on the same subject be brought to the association table for bargaining. Nelson said that the Regional Council was not authorized to bargain for locals on local openings. The delegation of authority by locals to the Regional Council gave the latter authority to bargain on IWA's industrywide openings and on all company openings. Hence, the Regional Council could not negotiate on amendments of contract provisions on hours of labor requested by a local in its openings, but presumably it would have had authority to bargain concerning U. S. Plywood's openings on hours of labor. Nelson's objection, however, apparently was that company and union local openings should not be separated and that, because the Regional Council could not bargain on the local union's opening on hours of labor it should also not bargain about the local openings on hours of labor of the company even though the Association and the Regional Council were authorized to do so. Nelson said that because of the seriousness of the matter, the IWA would consider the Association's proposal in a caucus, but he proposed to postpone the caucus for the time being and to continue discussion of the IWA's openings (i.e., the delegated industrywide openings).

The parties then started to discuss the IWA openings. Several of the association committee members made comments on the travel-time opening, the tenor of which was that this was a complex problem requiring study. Nelson said that further study would do not good, as the subject

was not a new one, and that travel time could be considered as part of the added cost of logging. Nelson raised an objection to the grievance procedure amendment sought by the Association. Then he asked if Wyatt had any further comment to make on the IWA wage demand. Wyatt said that the wage demand was too much and that any increase the employers gave would have to be related to the entire package.

The parties recessed for lunch¹⁸ and, when they returned, Nelson rejected Wyatt's proposed solution to the U. S. Plywood openings and made one of his own. He said that the Regional Council could not bargain on those subjects reserved by local unions in their openings but he suggested getting a separate room in which to have a separate meeting between the local union and the U. S. Plywood plant representative (assigning, if desirable, a regional and an association representative to sit in), and, if they were able to reach agreement and report back, then the Regional Council could proceed to discuss hours of labor as presented in general terms with U. S. Plywood. The Association caucused and returned to reject the IWA's proposal. Nelson testified he was told that U. S. Plywood was unwilling to bring plant managers in to bargain local issues there.¹⁹ Instead, the Association proposed that all hours of labor openings, whether local or general, and whether opened by local union or by the company, be brought in and be bargained by the association committee. Wyatt testified that he suggested bringing in "the people that were needed to discuss them intelligently and reach the conclusions as part of that bargaining." This suggestion apparently envisioned

¹⁸ According to Nelson, during a recess or caucus on April 25, Wyatt expressed hope that a solution could be found for the U. S. Plywood openings on hours of labor and intimated that a failure to resolve this difficulty might result in a withdrawal by U. S. Plywood, but that if IWA could go along with them this year, the openings next time would be uniform. Because the meeting of April 25 began in the afternoon and there were no recorded caucuses that afternoon, I find it more probable that this occurred on April 26 at the noon recess.

¹⁹ I infer that U. S. Plywood felt it unnecessary to bring in plant managers to bargain on behalf of the company when the Association had been authorized to bargain on its local issues on hours of labor.

the Association's committee as doing the bargaining, instead of the plant managers, but envisioned the local's representatives as speaking at the association level for the local albeit in session with representatives of the Regional Council present. Nelson rejected this proposal on the ground that the Regional Council was unauthorized to bargain for local unions on their local openings at the association level. Apparently, he either did not understand the proposal or, for tactical reasons, preferred not to assent. Nelson did not approve of separate bargaining at the association level on hours of labor openings applicable differently at different U. S. Plywood plants. Nelson then proposed that the parties leave the problems of U. S. Plywood's local openings on hours of labor and go on to a discussion of other subjects that were clearly before them, saying that, in disposing of other matters, they might find a way to handle the hours of labor problems of U. S. Plywood. According to Nelson, they thereupon got into a serious but short (since it was getting late) discussion of other topics. Negotiations were then adjourned to April 29, 1963.

During the meeting of April 29, M. A. Roberts, for St. Regis, handed Nelson a letter explaining the St. Regis openings on all contract clauses. This opening had been made because, in 1961 negotiations, St. Regis had agreed with IWA for the formation of a committee to study the various local contracts to determine whether or not uniformity of standard clauses could be worked out and, if so, to report back to the two negotiating committees (that of St. Regis and that of IWA). Roberts stated, in this letter, that St. Regis was willing to postpone discussions on the study on uniform provisions until after conclusion of the 1963 negotiations between the Association and IWA. This appeared to be acceptable to Nelson.

The Association opened the meeting on April 29 with a 3-year wage offer broken down in relation to the present wage scale.²⁰ In addition it offered a bracket adjustment

²⁰ Although testimony concerning what transpired at the meeting of April 29 was sketchy and Wyatt tended to confuse the meetings of April 29 and April 30, the General Counsel introduced in evidence the notes

(for those employees earning 35 cents or more over base rate) of 1 cent effective 6/1/63, with a formula for its application. This offer was made with the understanding that contracts would remain closed for 3 years and was made subject to the IWA's acceptance of the employer's openings. After a few comments by Nelson on this offer, the IWA committee caucused and returned with specific comments. With certain stated limitations, the IWA was willing to accede to the Association's 7-day continuous work-week proposal but were unreceptive to the other association openings. Nelson criticized the omission of any offer on loggers' travel time or on automation. He said the wage offer was inadequate and pointed out that employers had already given wage increases to employees at nonunion operations greater than was offered the IWA. He said that IWA would gamble on negotiating wages again in 1964 and 1965 rather than accept 1 percent for each of the last 2 years.

The meeting continued following a noon recess, with Wyatt and Nelson alternately going through the issues with comments and arguments in what appears to have been a genuine and serious effort to bargain for terms of a contract. In his testimony, Wyatt quoted Nelson as saying that, if the association offer was supposed to be an answer to everything before the parties, the Association must intend to bargain to a strike situation because that is certainly what would occur.

The parties again met in bargaining session on April 30, 1963. After Wyatt had commented on the employers' openings, he made a new wage offer of 7½ cents across the board as of June 1, 1963, 1 percent on June 1, 1964, and 1½ per-

taken at the meetings by Wyatt and by Boddy as well as a typed account made from these notes. I have referred to these notes to eliminate confusion. The Companies' wage offer was:

	6/1/63	6/1/64	6/1/65
From base rate to 31 cents			
above base rate.....	6¢	1%	1%
31½ cents above base rate			
to 52 cents above.....	7¢	1%	1%
Above 52 cents over base.....	8¢	1%	1%

cent on June 1, 1965, in addition to the same bracket increase previously offered. Nelson made some observations regarding the difference in existing contracts on treating the sixth day as a premium day, and on provisions preventing discrimination against a man for refusing to work overtime. He expressed disappointment at the Association's failure to include a provision on travel-time pay for loggers.

Following a luncheon recess, Nelson again raised the subject of travel time, saying that a reasonable formula would have to be worked out before the end of the negotiations. Nelson said that the IWA would consider writing language that might clear up the employers' opening on concerted refusal to work overtime, and he outlined several points that the IWA insisted would have to go into a provision covering this subject. Then Nelson made a wage proposal for IWA, asking 15 cents across the board as of June 1, 1963, 5 cents as of December 1, 1963, 10 cents as of June 1, 1964 and 10 cents as of June 1, 1965, with an allotment of 1 percent of total payroll for bracket adjustments, preference being given to mechanics, but making some of the money available to those making 25 cents over base pay so as to include choke setters. The association committee caucused and returned to say that parties were too far apart and that there was little more that could be done at that time. Wyatt proposed a recess, with a meeting subject to call by either party. Nelson said that the IWA wage proposal was not a figure for bargaining with intention to settle for half, that perhaps there was no value in a 3-year approach, and that the IWA would be willing to take 1 year at a time. He insisted that travel time be given consideration. After a few more comments by Wyatt, the meeting was adjourned subject to call.

Early in May, 1963, the local unions affiliated with IWA began to take strike votes. On May 2, 1963, Nelson made a report, published in the IWA official publication, reviewing the state of bargaining negotiations in the industry. In it he related that the negotiating committee of IWA had met separately in 1-day sessions with six named companies (not in the Association) in which each side had explained their negotiating demands; that the IWA committee had met

with the TOC and presented the union's demands, and that further bargaining sessions were scheduled with TOC for May 16 and 17; and that meetings were scheduled with two other companies. Nelson then stated that the committee had met with "the new 'association,' composed of six of the larger lumber companies" in five sessions "over the past 2 weeks." During these sessions, the report relates, "Much discussion was held relative to the Union's negotiating demands." It then listed those demands in detail. The report continued with a detailed list of the demands of "the Employers" (obviously referring to the Association). The report then gave details of the latest wage offer of the Association which it described as conditional on acceptance of the other demands of the Association, and which the IWA committee had rejected. After saying that no further negotiation meetings had been scheduled other than those previously listed, Nelson's report noted that the strike votes would be tabulated on May 14 and urged all who had not yet done so to cast a ballot.

The strike votes were tabulated and were reported on May 15 as (roughly) 15 thousand for strike as against 2 thousand opposed.

Before the next meeting between the Association and IWA on May 27, 1963, the Association held meetings with LSW as will hereinafter be related. On May 20, 1963, Nelson wrote a letter to IWA locals thanking them for the strike vote. In this letter, Nelson mentioned the TOC offer, which had been rejected, and listed future negotiations with two independent companies. He said that the IWA had notified the Conciliation Service of its deadlock with TOC and expected they would be calling a meeting soon. Then he said that IWA was in the process of contacting spokesmen for the "Big Six" (as the unions had been referring to the Association) regarding the setting of a meeting with them. The final paragraph of the letter read:

The purpose of this letter is to alert all Local Unions, if you have not already done so, to establish strike committees, to have strike banners printed and things of that nature. You should be ready to establish picket lines on short notice

The letter concluded that the committee hoped to see them all on June 3 (apparently the date for the strike decision).

The association committee again met with the IWA committee on May 27. During the first part of the session, the parties sparred each to induce the other to make a new offer, the Association exhibiting a reluctance to make any new offer before the Union had reduced its original wage demand. There was considerable talk by Nelson about a strike if the Association did not make a better offer. Nelson compared the situation with that which existed in 1954.²¹ Wyatt disagreed with the comparison and said that a strike was an outmoded means of settling issues and that one of the reasons for forming the Association was to make a strike an outmoded thing. Nelson asked Wyatt for a final offer. Wyatt parried the suggestion. The Union caucused, asking the Association to review their position, too. Following the caucus Nelson said that they would drop their request for a 3-year contract, but kept their demand for 15 cents an hour increase on June 1, 1963, and 5 cents on December 1, 1963, plus a 5 percent increase for skilled labor to be computed after adding the general increase, plus a solution to the IWA's demand for travel time for loggers. Wyatt asked why the Union had dropped the demand for a 3-year contract. Nelson said that companies were not willing to pay enough, that the IWA still liked the 3-year approach but dropped it because of the low offer. Nelson had previously called the Association's offer for the second and third years an insult. After Wyatt had restated the Union's offer to be sure he understood it correctly, the parties adjourned until the following day.

On May 28, when the committees resumed their bargaining, Wyatt criticized the change in the Union's position as lateral as compared with the companies' upward change. He said the companies preferred the 3-year approach and made a new wage offer. For the first year he offered 8 cents and offered to give a list of specific skilled jobs and the amounts they would receive and proposed 2 cents an hour on the total payroll as a bracket fund. This was a

²¹ It is presumed that this referred to the last industry strike.

1 cent increase on the bracket fund. The companies then increased their second and third year offers to $1\frac{1}{2}$ percent and 2 percent. This was based on acceptance of the employer's openings. Nelson expressed approval of the return to a 3-year contract but criticized the companies' failure to say anything about travel time or automation. A caucus was then held until 1 p.m. When they returned, Nelson said that the union agreed in principle to the bracket proposal subject to reviewing the list offered. He asked for the number of people in each classification. Nelson then made a travel-time proposal for a sum to be paid for travel time computed from an agreed central pickup point and return on the basis of the excess over 10 hours a day. He also asked for a joint committee to study problems and make recommendations on automation. Finally, he made a new wage proposal of 15 cents an hour increase on June 1, 1963, $7\frac{1}{2}$ cents on June 1, 1964, and $3\frac{1}{2}$ percent on June 1, 1965. The parties caucused and did not meet again that day.

On May 31, 1963, they met again by agreement. Wyatt said that neither side wanted a strike, that the companies had reviewed their position and that they were going to make the last change. He went through the various openings of each side. In addition to the bracket adjustments, the Association offered $8\frac{1}{2}$ cents an hour increase as of June 1, 1963; 5 cents on June 1, 1964; and $2\frac{1}{4}$ percent general increase on June 1, 1965. The Association agreed to an automation committee, suggested a 1-year study of travel time by the companies with a report in that time to a union committee with recommendations for a mutual study and a report to the negotiating committees, dropped its opening on grievances, and reiterated its need for the openings on hours of labor and on concerted refusal to work overtime. Nelson asked questions regarding whether or not certain openings were expected to be closed for the duration of the contract and then asked if this was the employers' final position, as a package. Wyatt said that it was but added that he had not said it was "take it or leave it." The IWA committee asked for a caucus, following which they asked a recess, with a meeting set for June 4.

On June 4, 1963, as agreed, the IWA representatives

met with the association committee. Nelson informed the Association that its last offer was inadequate. The IWA had no new proposals to make. There was talk of a strike, each side disfavoring it. When the Association declined to make a new offer, Nelson spoke of an impasse and said the IWA was breaking off negotiations. On the morning of June 5, 1963, the IWA and LSW struck U. S. Plywood and St. Regis.

Late on June 4 or on the morning of June 5,²² by pre-arrangement, Wyatt met with Nelson at the latter's office to discuss the situation, asking where negotiations had broken down. Nelson told Wyatt in general terms what would have been needed to avoid a strike and said his only future plan was to negotiate an honorable settlement. Wyatt testified that he informed Nelson at this time that if (as the IWA had indicated to its locals) the IWA struck part of the Association, the rest would certainly close down. Nelson denied that Wyatt told him in this conversation that the other members of the Association would shut down if part were struck and I believe he was literally correct. Wyatt did not strike me as the kind of man to make a positive statement about something that depended on the decision of others. Wyatt may have stated, in substance, that the members of the Association were bound by agreement to close down if any one member was struck. Nelson testified that on the morning of June 5, after the commencement of a strike of two members of the Association, Wyatt informed him that the other members were meeting that afternoon and that he might have something to report. Nelson testified that his "first information concerning a lockout" came from a news correspondent on the afternoon of June 5. Although this may have been the first time when Nelson was positive that there would be a lockout, I do not believe that Nelson was ignorant of the possibility that there might be one. Even if Wyatt had not said as much to Nelson, the IWA was in close liaison with LSW, and the latter was certainly aware of that possibility as early as May 9, 1963.

²² Wyatt put this meeting as late afternoon on June 4; Nelson at 11 a.m., June 5.

(c) Prestrike meetings between LSW and the Association

The LSW, through its local unions, represented employees of, and had contracts with, five of the six members of the Association, Rayonier being the one having no employees represented by LSW locals. LSW locals in 1963 duly gave notice of opening on one or more subjects. In 1963, the only openings on which these locals were uniform were those of wages and duration of agreement. The subject of wages, among others, had been opened for negotiations in 1962, and because LSW did not succeed in effecting an agreement on a wage increase that year, that opening had never been closed. Authority to bargain on wages for a 3-year term had been delegated by the various locals to the respective district councils, who in turn had redelegated such authority to the Western Council.

Each of the five members of the Association with whom LSW locals had contracts, in March, gave notice of openings and, in April, gave notice to LSW representatives of the respective companies' delegation to the Association of authority to bargain for them with respect to the operations listed in such notice.²⁸ St. Regis, in this letter, listed two subdivisions—Ladd Woods Operations, Morton, Washington, and Northwest Door Division, Tacoma, Washington—where the employees were represented by LSW locals 2767 and 2633 respectively. U. S. Plywood listed eight plants located in California, Oregon, and Washington. In the association agreement, U. S. Plywood had listed other operations at which LSW locals represented its employees but in neither had it listed Douglas City, California, or Polson, Montana.

On May 8, 1963, the day before the first meeting between LSW and the Association, the Western Council composed a letter to Boddy, as secretary of the bargaining committee for the Association, notifying the Association that Western Council had been authorized to represent LSW local unions and district councils in collective bargaining with "the Multi-Employer Association, referred to as the 'Association' in letters received from" the five companies previ-

²⁸ See, for language, the letter to IWA above quoted, pp. 11-12.

ously mentioned. The LSW letter went on to list, by number, its local unions currently representing employees at the operations of the listed companies. However, this list covered more operations than had been listed in the companies letters and even more than had been included in the association agreement. Under St. Regis, this letter listed not only Locals 2633 (Tacoma, Washington) and 2767 (Morton, Washington), which St. Regis, itself, had listed, but also Local 2581 at Libby, Montana, and 2805 at Klickitat, Washington. Under U. S. Plywood, the LSW letter listed locals representing employees at locations not listed in U. S. Plywood's letter to LSW. These were Local 1909 (Polson, Montana), and Local 2882 (Sonoma, California). The Sonoma plant had, however, been listed in the association agreement. The LSW letter (which was not mailed but was delivered in person at the first meeting) does not mention any discrepancy between the locals it listed and those operations listed by St. Regis and U. S. Plywood.

On May 9, 1963, by previous arrangement, representatives of the Western Council of LSW and of the Association met in Portland, Oregon.²⁴ The principal spokesman for LSW were Hartley and Johnston (as previously stated, an economic adviser and consultant to LSW). Wyatt was spokesman for the Association. Johnston, at the opening of the meeting, stated that LSW was not recognizing the Association as a bargaining agency until it had answers²⁵ to certain questions. Johnston asked about the structure of the Association, and whether or not it was formed on the concept that a strike against one would be a strike against all. Wyatt explained the structure and answered the last question in the affirmative. Johnston asked if the Association had written authority from each company, to which Wyatt answered that it did. Johnston asked if he

²⁴ The Rayonier representative was present at one of the series of meetings but did not serve on the Association's committee.

²⁵ Johnston quoted himself as saying "satisfactory answers." The notes of the union representative do not show the word "satisfactory" and I doubt that this word would be used because it would permit no alternative decision by LSW if most answers were satisfactory but one or more others were not.

could see the association agreement. Wyatt brushed off the request without a specific reply. Johnston asked if it was the intent to bind all the companies by the bargaining. Wyatt answered that it was. Johnston asked if the Association would sign for the companies. Wyatt answered that the Association would sign a settlement agreement and that each member involved would sign separate agreements incorporating the results of the bargaining in their separate contracts. Johnston asked if the Association could bargain about anything other than what was in the companies' letters, commenting that nothing was said about the Association's authority to bargain about union openings. Wyatt assured Johnston that the Association could bargain about union openings, with the exceptions mentioned in the companies' letters to LSW. Johnston said that the Council welcomed associations but that it had to be able to bargain on any and all issues. It is not clear to the Trial Examiner whether Johnston envisioned bargaining for individual locals on issues not opened and not delegated to the Western Council for bargaining or whether he was not familiar with the practice of the LSW with respect to openings and delegation of authority. From part of his testimony, I infer that he did lack familiarity with such practice.

Johnston next called attention to the absence of certain operations of St. Regis and U. S. Plywood from the lists furnished by those companies to the LSW in their letters, as heretofore related. Wyatt explained, in part, by saying that, traditionally, bargaining had been separately conducted for plants east of the Cascades. This referred to the operations of St. Regis at Klickitat, Washington, and at Libby, Montana, and to the operations of U. S. Plywood at Polson, Montana. As for the omitted U. S. Plywood operations in California, U. S. Plywood explained that the omission of the Sonoma plant, which had been listed in the association agreement, had been an oversight,²⁸ and U. S.

²⁸ LSW introduced no evidence of a contract opening for Sonoma. If Sonoma failed to open, this could have explained the omission thereof from the U. S. Plywood letters to LSW listing the plants to be bargained for. The Douglas City plant had apparently not been included because it was a new acquisition.

Plywood later agreed with Johnston that the Douglas City plant, although not listed in the association agreement, should properly be included in the association bargaining, but it refused to include Polson, Montana. Johnston said that the Western Council would, in negotiations, be speaking for all its locals. He explained that the LSW wished to have a unit that would protect it from raids by other unions or that would prevent siphoning off of individual plants by decertification. He explained that LSW had had six raids by the Teamsters' union in 1962. As part of the protection sought, Johnston said that the Council wanted a master contract.

A recess was taken for lunch and to permit both sides to caucus. Following the recess and caucus, Wyatt said that the Association was limited in its authority to a discussion of the subjects before the group exclusively for the plants listed by the members of the Association. Hartley said that the Association was a new setup and should at this time bargain for all the plants of the members (i.e., all in the Western Council area). Wyatt said that the Association had not been empowered to bargain for all plants. He said that the exclusion of certain plants was no different from the case of Weyerhaeuser which had plants elsewhere in the United States where employees were represented by locals affiliated with the same international union (which were not listed for association bargaining). There was some discussion of the authority or mechanics of bringing in new plants or excluding others. Wyatt explained that members could not remove plants from association bargaining but might, after the current year, decide to bring in new ones. Johnston asked if the Association could bargain on issues such as a master contract. Wyatt said yes, that the Association just could not bargain for the excluded areas and issues. At about this time, according to Johnston's testimony, the LSW committee caucused "because we had reached a point where the wage committee of the union had explored the question and received the answers and there was no use asking them over again so we took a

caucus to decide what to do."²⁷ It is not clear whether the wage committee referred to was the same or different from the LSW negotiating committee. However, when the union committee returned, Johnston announced that the union committee represented all locals having contracts with the five companies and that when the committee spoke, it would be for all locals. Wyatt said that the Association would not respond for operations other than those listed (i.e., not for those east of the Cascades). Johnston testified, "I stated that, in effect, each party has stated its position but perhaps through further discussion positions can be modified." This statement does not appear in the LSW's notes of the meeting. Because Johnston's testimony suggests a lack of agreement on the multiemployer unit tendered by the Association, I find it necessary, by way of testing Johnston's testimony, to make a comparison thereof with the notes of Ted Prusia, the recording secretary for LSW. These notes show that, following the caucus of both parties, the ensuing colloquy took place:

Wyatt: . . . Which brings us to the exclusion of certain plants. We feel that this has been past practice and past methods of collective bargaining by these companies and the Western Council to continue to negotiate. [sic]

Hartley: The fact that this association is a new set up, then this should be a criteria for bargaining for all the plants on one level.

Wyatt: We are not empowered to bargain for these plants that were excluded. And this association being put together is not the reason for the exclusion.

Johnston: Yes, but we have always dealt with the employers for all plants.

²⁷ Wyatt testified that during a caucus he told Hartley and Johnston that if the inclusion of the St. Regis plants was a make-or-break situation, there was no way to proceed. He said he was expecting a telegram from New York reconfirming St. Regis' position. This later came and a copy was furnished to Hartley.

Discussion on plants excluded.

Johnston: Does your association have the right to take out plants or bring in at will[?]

Wyatt: Not the right to withdraw, we might want to bring some in. We have not taken a position that a company has the right to withdraw or bring in a plant without permission of the Association, however, companies can drop out or new companies can come in with permission of the association.

Johnston: We will help you round up the plants if you will set it up right. We would have helped TOC do this, but they barred us.

Wyatt: We do not see eye to eye on the issue of East-West of the Cascades. We do not bargain for Sonoma Plywood²⁸ or Poulson [sic], Montana, but if U. S. Ply wants them in later, they can. We have the four [operations] exclusions for this year, but I see no reason for the future why this cannot be changed.

Johnston: Then you can bargain on our issues such as master agreement, etc.

Wyatt: Yes. Just not for the exclusions.

Johnston: My only point is that you cannot make us bargain at four levels.

Wyatt: I understand your position, but I want it understood that this association cannot speak for the plants excluded. And, in agreeing with your fix [?] points, it does not mean that we are in agreement on all issues at this time.

Roberts: (For St. Regis) We will be speaking only for the plants listed and we will be willing to meet at Klickitat and Libby on the issues at those plants.

²⁸ Wyatt was presumably mistaken about the exclusion of Sonoma Plywood since Sonoma is listed in the association agreement.

This was the last thing recorded as said on the subject of the exclusion of certain plants. I find that Johnston was mistaken in his testimony that, at the conclusion of the discussion about the exclusion of the plants aforementioned, he in any way intimated that LSW was not settling for the bargaining area outlined by the Association, at least for the 1963 bargaining.

At this point, Hartley delivered to the association committee the letter, previously described, which bore the date of May 8. This letter concluded with the paragraph: "As we begin meeting with your Association, it is our hope that you will join us in a mutual objective of reaching a satisfactory and speedy conclusion of these negotiations." Hartley commented, according to Johnston, "Well, we have got rid of the technicalities." Johnston then distributed to the association committee copies of a three-paged letter written by Hartley on April 11, 1963, to "Lumber Industry Employers Holding Contracts with Lumber and Sawmill Workers Unions." This letter discussed conditions in the industry and covered the problem of automation, health and welfare, pensions, and the need for a substantial increase in wages. A paragraph near the end of the letter read:

These changed circumstances in the industry can best be met by certain changes in collective bargaining approaches. In some cases of multi-plant companies, we have suggested and you have agreed to company-wide bargaining. We have in certain cases suggested an approach to multi-plant single company-wide contracts. Joint multi-employer bargaining is a desirable approach to an overall industry problem, and we welcome an industry association or, in the absence of a formal association, a joint employer industry committee representing the major companies with which we hold contracts covering a majority of our members.

Johnston then proceeded to outline the union demands as: A committee on automation; a committee on classifications; a master contract to be worked out within the first year of a 3-year contract; a change in pro rata vacations

for retired employees; a provision protecting employees from loss of work for duration of the contract in the event of subcontracting; bracket adjustments for maintenance men; and a 60 cent increase in wages over 3 years. On the subject of a uniform contract, Johnston said that it was not a matter of opening all contracts for all subjects and trying to negotiate an entire contract for five companies within a year, but it was only requested that during the first year they make uniform and put into a master contract, with all companies, sufficient items to give the union the protection of a unit (i.e., protection against decertification of individual plants).

Wyatt asked a number of questions and received answers. Then he outlined the openings of the Association members, which were the same as were presented to the IWA. Wyatt argued that automation was not a problem in these companies because employment for LSW at the companies who were members of the Association had increased rather than decreased.²⁹ Johnston asked that May 22 and 23 dates be held open for meetings after the May 10 meeting. Shortly after this, the meeting adjourned until the next day, May 10.

The same parties met again on May 10, 1963. Wyatt opened the meeting with a statement of the Association's views regarding the LSW proposals.³⁰ Wyatt then outlined the Association openings and followed this with a wage offer of 2½ percent increase and a fund of 1½ cents on total hours worked for adjustments of wages of skilled workers as of June 1, 1963; a general increase of 1 percent as of June 1, 1964; and another 1½ percent on June 1, 1965. The evidence is conflicting on whether or not there was, in the meeting, a further discussion about plants east of the Cascades. At one point, Wyatt testified that he

²⁹ Both LSW and the IWA argued during the bargaining meetings that increased employment had resulted only because of acquisition of new plants and that this did not mean that automation had not resulted in loss of jobs.

³⁰ Notes taken by men for each side at this meeting indicated that Wyatt's comments were made seriatim on the LSW proposals and that the Association was favorable to some and critical of others, but Wyatt was unable to remember this portion and Johnston referred to it in his testimony only in general terms.

thought the May 10 meeting opened with a further discussion of the excluded plants or areas, but he admitted that he was confused about the two meetings. Johnston testified that Wyatt opened the meeting of May 10 with answers to the general proposals of LSW, and then made the first wage proposal. But he went on to testify: "We had a considerable discussion again about the master contract, our desire for unit protection. We had considerable discussion in connection with the excluded areas." But in response to a question asking the substance of those discussions, Johnston testified that he might get "mixed up between the 9th and 10th." The notes of Ted Prusia, recording secretary for the LSW, show no discussion of excluded areas at the meeting on May 10, nor do Boddy's notes made for the Association. The subject was, indeed, brought up during the caucus taken by the LSW, right after the wage proposal was made by Wyatt, when Wyatt showed Hartley a St. Regis telegram reaffirming its previous position that the Association had no authority to speak for plants east of the Cascades. Exactly what Hartley said at this time is not, however, shown by the evidence. Also, during the recess for this caucus, Johnston spoke with Frank Doherty, U. S. Plywood's industrial relations manager for its California division, and came to an agreement on which California plants would be included in the Association's bargaining. On all the evidence, I am not persuaded that LSW was, on May 10, 1963, insisting on bargaining with the Association only on the basis of the inclusion of plants east of the Cascades. It is unlikely that a matter of this importance would have been completely omitted from notes on each side.

Following the Union's caucus to consider the wage proposal and other positions taken by the Association, the LSW committee returned and rejected the wage and other proposals of the Association. The LSW said that the Association was bargaining for a strike if that was the employers' best offer. The meeting ended, to reconvene on May 22.

The parties met again on the latter date but the Association would not make a new offer, taking the position that the next move was up to the LSW. The latter would

not change its demands and sought to get the Association to make a new offer. Johnston continued his attempt to get something in the nature of a master contract for unit protection. Johnston testified that, exclusive of economic issues, they had "discussed the question of a master contract," that he had "challenged the authority of the Association to even bargain on the issues of master contracts" and that Wyatt had said they had the authority but refused to do so. This testimony suggests that unwillingness or inability to bargain for a master contract connoted a flaw in the Association's organization. I shall discuss this further hereinafter. At this point it is sufficient to say that the Association was explained by Wyatt to be bargaining for a settlement agreement, the terms of which would be incorporated into the contract of each employer at the plants covered by the Association's agreement and that, over the years, by successive settlement agreements, the contracts of the several companies would attain uniformity and that this would bring about a uniform contract by evolution rather than by revolution.

The meeting was spent mostly in trying to jockey each other into making the next offer. Prusia's notes of the meetings (for LSW) read very much as though he had taken down the discourse in shorthand or speedwriting, because it is in direct quotations. An excerpt therefrom illustrates the state of negotiations:

Johnston: Alright (sic). We are all here, what do you suggest we do now?

Wyatt: Well, we expect to bargain.

Johnston: Fine, let's bargain.

Wyatt: O.K., shoot.

Johnston: As you know, we could not accept your last offer. We hoped you would have something more to offer in this meeting.

Wyatt: Have you changed your position?

Johnston: We are not final in our demand.

Wyatt: Well, let's bargain then. (Discussion)

Wyatt: I think that this group is completely unwilling to change its position at this time.

Hartley: Well, we have not changed our position either. I have been bargaining too long to take any other position at this time.

Following a caucus, Hartley said that he had notified the Federal Mediation and Conciliation Service and was willing to meet at any time. The meeting of May 22 adjourned without a further meeting date set.

The next meeting between LSW and the Association was under the auspices of the Federal Mediation and Conciliation Service on June 3, 1963. The meeting started in the morning and ran to mid-afternoon. Each side was asked to, and did, review its position. In stating the position of LSW, Johnston again proposed a master contract.²¹ As quoted in Prusia's notes, Johnston said, "... We think

²¹ In testifying about this meeting, Johnston said that the Mediator had asked for a statement of the position of each of the parties and that in making that for the LSW he had stated (*inter alia*): "We had proposed a classification committee in a master contract which was flatly rejected, and that we could not recognize the Association as a bargaining group unless they would give us equal treatment and agree to a master contract at least with sufficient points in it to provide protection that we wanted in return for giving them the protection against the unions' previous policy of selective strikes of one company at a time." I take Johnston's testimony to be a report to the Mediator of what Johnston believed had taken place at prior meetings with the Association, including the one on May 9, and do not take it as a statement that this was the attitude of LSW as of May 22. However, whatever Johnston told the Mediator on July 3 about the LSW position, I find that a refusal to recognize the Association was not the position of the LSW after the first part of the meeting on May 9. Following that date, it is apparent from LSW notes taken at the negotiating meeting that whenever Johnston spoke for a master contract, he did so as a bargaining proposal. If the LSW were, on June 3, 1963, not recognizing the Association as a bargaining agency, there was no reason for it to be meeting with the Association on June 3, at all, for the purpose of dealing with economic terms of a contract, which is what they did at that meeting. It was not until after the strike and lockout that LSW made any proposal to bargain individually with members of the Association.

there is value to a big six association and we would like to solidify this Association by a master agreement. . . .” When Johnston’s proposal for a master contract was rejected, Johnston asked if it would make any progress if the employers dropped their request for a variable work-week on condition that the LSW would drop its request for a master contract. Wyatt indicated that the members were unwilling at that time to negotiate a master contract. The Commissioner met with each side separately. On return to the meeting, Wyatt made a proposal reiterating the employers’ demands on their openings, agreeing to an automation committee, and making a new wage offer of 8½ cents as of June 1, 1963 (plus a 2 cent bracket adjustment fund); 5 cents on June 1, 1964; and 2½ percent per hour increase on June 1, 1965. A discussion of this offer ensued and then the union took a caucus. Following the caucus, Hartley rejected the offer and commented that the parties had deadlocked and that the union was going to take economic action (meaning that it was going to strike). Hartley said that Wyatt and Johnston had done a good job and thanked them. The meeting adjourned without plans for another meeting.

After the meeting of June 3, 1963, Hartley and Johnston invited Wyatt to their hotel for an off-the-record discussion. Wyatt went there that evening. They discussed the imminence of a strike and the matters on which they were “in a bind,” as Johnston testified. Hartley told Wyatt that the employers would have to make a substantial increase in their offer in order to avoid a strike (Wyatt quoted Hartley as using the expression “open up the purse strings”). Johnston asked Wyatt if the rest of the members of the Association would lock out if the union struck some of the companies. Wyatt said the members had an agreement to do so but that at that moment he did not know even what his own company would do. He said, however, that on June 5 there would be a meeting of the Association, presumably to decide a course of action. Johnston asked Wyatt if he thought such a lockout would be legal, and Wyatt, according to Johnston, replied that their attorneys thought so. That same night Hartley and Johnston went to visit Otis

Hallin, vice president of Crown Zellerbach. Johnston asked Hallin about the rumors of a possible lockout, saying that he understood that a lockout was contrary to Crown Zellerbach's policy. Hallin told them that Crown Zellerbach was committed to the lockout provided that the other companies did likewise. He also referred to the fact that the Association's members were having a meeting on the afternoon of June 5.

That Hartley and Johnston were interested in learning as much as they could regarding the intention of the Association's members in the event of a strike of less than all is evident from their efforts on the night of June 3 to glean this information from Wyatt and Hallin. But I conclude that the prospect of a lockout was not enough to turn the LSW away from its main objective of using economic force to gain a substantial wage increase. Johnston, in his testimony before the California Unemployment Compensation Appeals Board on August 27, 1963, related his efforts to instruct LSW in the significance of a lockout. He testified: "... I felt it was my job to, as best I could, to inform not only the negotiating committee but the entire executive board as to what a lockout is, they never having been in a lockout before. I discussed it with them. I might add ... the subject they were more concerned about negotiating to was a wage increase more than any theoretical information that I was giving them. They ended up cutting me off. ..."

Although IWA's strike authorization was not solicited or given until after negotiations had commenced, LSW had laid plans for a strike before the beginning of any negotiations.²²

7. The strike and the lockout

On the morning of June 5, 1963, the IWA and LSW struck the plants of U. S. Plywood and St. Regis.²³ Each

²² See Johnston's testimony before the California Unemployment Compensation Appeals Board (G.C. 42), p. 62, indicating that strike authorizations were received in the first 3 months of 1963.

²³ Two small operations of the 16 U. S. Plywood operations covered by the Association's agreement were not struck by LSW. All those of St. Regis were struck.

had plants represented by each union.

On June 5, 1963, the secretary-treasurer of Western States Regional Council No. 3 of IWA wrote a letter to all local unions in its jurisdiction stating that by the time the letter was received many of their fellow IWA members would be on strike, that it might be "your local" or just a part of it. The letter then continued:

In order to make the strike as effective as possible, the Negotiating Committee and Executive Board have elected to Strike certain selected Companies at first and then extend it from time to time as circumstances and good strategy dictates [sic]. This, we believe, will be the most effective method to obtain an industry wide settlement, in the shortest time with the least sacrifice to the members.

The remainder of the letter dealt with a proposed per capita contribution to the Regional Strike Support Fund.

Under date of June 5, Hartley for LSW wrote a letter to all locals, stating that the "negotiations with the Big Six reached an impasse and economic action is the only method left to achieve your wage demands"; that a strike at "some plants" would commence at 12:01 a.m. on June 5, 1963; that the six companies had agreed amongst themselves "to lock us out if we strike any one plant or company"; that the "Western Council Committee Member is familiar with the procedure to be followed" and that the locals should not take any action except as recommended by said members. The letter reported the final offer of "the companies" and concluded with the statement, "We know the proposals are totally unsatisfactory and you will see this fight to a successful conclusion." Because it is contended that the LSW refused to recognize the Association as a bargaining agent, among other reasons on the ground that the Association would not bargain with LSW for all locals in the area of the Western Council, I believe it worthy of note at this point that, in this letter, nothing was said with regard to such a refusal on the part of the LSW to recognize or bargain with the Association.

IWA and LSW had agreed between themselves that, if a settlement could not be reached, they would take economic action against U. S. Plywood and St. Regis on June 5.²⁴

On the afternoon of June 5, 1963, members of the Association's negotiating committee and other representatives of the Association's members met. U. S. Plywood and St. Regis reported the fact that plants covered by the Association's agreement had been struck and were being picketed.²⁵ The Association's representatives then discussed the reason for the strike and decided that it was to gain economic benefits related to the collective bargaining between the Association and the two unions. Having so decided, the four corporate Respondents decided to close their plants (those that were covered by the Association's agreement) as they had agreed in their association agreement to do. The Association immediately gave notice of this decision to the press, and the corporate Respondents followed this announcement on June 6, 1963, with a notice to all employees and, presumably, to each local union.²⁶ In each, the company stated, in fact or substance, that the reason for the closing of their plants was to protect their group solidarity against selective strikes.

The shutdown began on June 7, 1963, at varying times of the day, depending on the operation, and continued until early August as will hereinafter be related.

²⁴ Johnston so testified in a case involving California Unemployment Compensation Claims, and LSW in its publication, *The Union Register*, on June 14, 1963, referred to the strike by the LSW and IWA as a "coordinated move." It stated that the reason for the strike was "to gain wage increases industry-wide."

²⁵ Two plants of U. S. Plywood, one at Redding and one at Douglas City, both in California, had not been struck. The reasons for the exclusion of these plants was testified by Johnston in the California Unemployment Compensation Claims case before the Appeals Board, to be because the district council had not voted to take strike action there. Other plants of the two companies covered by the Association's agreement were struck.

²⁶ Copies of letters sent by two companies to local unions are in evidence. Wyatt testified only as to Weyerhaeuser, which was the extent of his knowledge, that each local union was notified.

8. Events after the lockout

As stated before, the unions, on June 13 and 14, respectively, filed charges in these proceedings. On June 18, 1963, meetings were arranged by the Federal Mediation and Conciliation Service. A meeting was arranged for early morning of that day between Nelson and Wyatt and later that morning between Hartley and Wyatt.

In the first meeting, Nelson and Wyatt candidly discussed the issues and differences that were keeping the parties from agreement, concentrating on wages, travel time, and the employers' hours of labor proposal, and discussing the possible degrees to which either might yield. Nelson testified that he also stated that he objected to bargaining U. S. Plywood openings on hours of labor on more than one level. The Mediator suggested a meeting of the full committees on June 21. Both Wyatt and Nelson thought this might be premature. Nelson indicated that his group was meeting with Georgia Pacific on June 24 and with Simpson Lumber Company on June 25 and 26. Nelson felt that a settlement with Simpson on that date was a possibility. In the course of this discussion, Nelson stated that he would prefer to reach a settlement with the Association, if possible, because that would establish a pattern in the industry for settlements elsewhere. The date of June 27 as a possible time for a meeting of the two committees (IWA and Association) was discussed but not finally set. Wyatt brought up a subject of fire hazard resulting from blown down trees and the need for access roads. He asked Nelson if there was any objection to allowing union members to return to work to build fire access roads. According to Wyatt, Nelson said he had no objection thereto and would write to the locals not to object. Nelson's testimony about this subject tended to limit the scope of his reply to employees of the respondent companies only, for he said he believed he had told Wyatt that "they laid them off and they could put them back to work." He testified that Wyatt did not ask for an agreement on the struck companies and he

would not have got it if he had.²⁷ I find a resolution of the conflict to be unnecessary. Even if Wyatt's version were accepted, the evidence would only be cumulative. Other evidence makes it clear that on June 18, Nelson gave no indication that his organization was refusing to deal with the Association as collective bargaining agent of the member companies and, in fact, gave every indication to the contrary.

Later that same morning, another Mediator conferred with Hartley and Wyatt. The Mediator expressed his concern over the seriousness of the situation and urged the parties to find an area of agreement. According to Wyatt (Hartley did not testify), Hartley said that all that was needed was for Wyatt to loosen up the purse strings and that the problem was to make Wyatt more influential in the soundproof rooms (meaning boards of directors and top management of the member companies). Wyatt said that the distance between the LSW wage demand and that of the employers was too great (60 cents as against the approximately 21 cents offered by the employers) to warrant a new offer on behalf of the Association. According to the written report of this meeting made by Wyatt later, Hartley indicated that he wanted 35 cents over the 3-year term. Wyatt said that no employer movement was possible on that basis and that, if anything, the employer attitude had firmed up since the strike started and that he thought this could be attributed to the fact that the Association believed the union's tactics, including the filing of the charge with the Board, indicated an apparent desire to gang up and clobber the Big Six. Hartley replied, according to Wyatt, whose testimony is undenied and is credited, that he had no desire to disturb the relationship or cause the Association to go out of existence and that the filing of the charges was just a tactic, something for the boys to think about during the strike. After a discussion of economic matters by Wyatt and Hartley, Wyatt asked Hartley

²⁷ No evidence was adduced to show that employees of St. Regis or of U. S. Plywood worked on access roads for those companies during the strike.

if he would agree to, and would ask his locals to agree to, permit personnel represented by LSW to construct fire access roads. Hartley asked if Wyatt had spoken to Nelson about this and asked what Nelson's reaction had been. Wyatt told Hartley that Nelson had expressed himself as willing to advise his locals to perform such work. Hartley said he had no objection and would so advise his locals. The Mediator suggested holding a meeting of the respective committees of the LSW and the Association. Hartley said that he did not think it would be of much value before a date which Wyatt could not remember but which he had recorded as July 10 in his memorandum of the meeting written shortly thereafter. However, Hartley said he would be glad to meet at any time the Mediator wished to call a meeting. Hartley complimented Wyatt for doing as good a job as he could with what he had to work with and that he was sorry that Wyatt was ineffective in the sound-proof rooms.

On June 27, 1963, pursuant to arrangements made by the Federal Mediation and Conciliation Service, the Association's committee met with the IWA committee. Sitting in as observers were Hartley and three other LSW representatives. Each side was asked to, and did, state its position on the issues. Nelson again raised the previous objection to U. S. Plywood's conflict of openings on hours of labor. Following a caucus, the U. S. Plywood representative made a statement of its openings, indicating, as it previously had, that his company would be bound by an association concluded settlement on all its hours of labor openings that covered the same general position as the Association's and that the company would meet with the locals on matters involving hours of labor that were distinct from the Association's opening. Nelson testified, "The union rejected the proposal or idea and again reiterated our position that we would not negotiate the hours of labor at more than one level." However, I conclude that this was not a point which induced the IWA later to take the position that it had not recognized or accepted the Association as a bargaining agency for the respective members, for in reporting to local unions on the state of

IWA negotiations with Simpson and with the Association, Nelson, in a letter dated July 1, 1963, stated:

The Union Negotiating Committee also reminded the Employers' Committee that in the case of U. S. Plywood Corporation, there were Hours of Labor openings by the Company over and beyond those openings which were being sought by the Association Committee and at least in one case, the Local Union likewise had openings on the Hours of Labor provision.

In reply to this, U. S. Plywood suggested that we enter separate negotiations at the Local Branch Level on the Hours of Labor openings provisions other than those being discussed by the Association Committee. Time permitting, we shall attempt to arrange some such meetings.²³

The meeting concluded without change of position on the issues and without a day set for resumption but with the understanding that the Mediator might call one.

Under date of June 28, 1963, a Friday, Hartley, on behalf of the Western Council of LSW, wrote to Weyerhaeuser Company, to the attention of Wyatt, and to St. Regis, to the attention of M. A. Roberts, at Tacoma, Washington, stating:

We as the collective bargaining agent for your employees at those plants as shown below, request that you, as their employer at those plants, fix a date and place wherein we may bargain, as contemplated by the National Labor Relations Act, as amended, on all issues open for negotiations between us this year.

We will, of course, treat with any agent that you may designate for such bargaining.

Your employees have been and now are ready and willing to work if you terminate your existing unlawful shutdown at your plants, and your employees most cer-

²³ In this same letter, Nelson said, "The Committee from the Lumber & Sawmill Workers and this Committee will meet jointly right after the 4th of July to discuss the advisability of extending the picket lines to other operations." This followed in the same paragraph in which Nelson spoke of LSW meetings with the Big Six and with Georgia Pacific.

tainly will continue to work until an impasse has been reached in bargaining with your company as their employer.

Listed at the bottom of these letters, respectively, were four of the plants of Weyerhaeuser Company in Washington and California and two of the St. Regis plants in Washington. It is interesting to note that the St. Regis plants listed by the LSW in the letter to that company did not include those east of the Cascades or, in fact, any except those plants listed in the Association's organizational agreement. No one offered in evidence similar letters written to other members of the Association, but it may be assumed that they were from the replies which were introduced in evidence and from Respondents' concession of the fact. The foregoing letters, addressed to the offices of the individual companies, were delivered on July 1, 1963, at a time when Wyatt, Roberts, and other representatives were in Portland for a meeting arranged by the Federal Mediation and Conciliation Service between the Association and LSW. They did not, therefore, see the letters until their return from this meeting.

The meeting of July 1 was attended by sixteen representatives for the various companies and fifteen representatives for the LSW. In addition, Nelson and two IWA representatives sat in as observers. At the outset of the meeting, Johnston asked the Mediator how he had arranged the meeting. The Mediator answered that he had done so by calling Hartley for the LSW and Wyatt for the Association. Johnston testified:

I stated, on behalf of the Lumber and Sawmill Workers, that we were now in a lockout position; that we were not going to meet with the Association as such while our members were being locked out; that they [sic] were only there to meet with the five companies as individual companies with whom we had contracts. I stated again our position of desire of negotiating an Association contract covering all areas and all innuence but that we were locked out and we were not

going to continue that exploration; that there must come an end to that kind of discussion and the end of that discussion came with a lockout.³⁹

Wyatt, in his testimony, quoted Johnston as saying that he had been representing the LSW seeking an association contract, that the Association did not have authority to negotiate or to give the Union an association contract, and if they were to go ahead and bargain with an association they would have to ask that they be granted an association contract. Wyatt replied that the Association could bargain for an agreement which could be binding on all companies, and they had, in the meetings to that point, been bargaining as an association, that they were there that day only as an association, and unless the union was willing to meet with them as an association there was nothing to meet about.⁴⁰ In the notes taken by the LSW representative at this meeting, Johnston is quoted as saying, later in the discussion, "we do not take the position that we will not meet with an association for the purposes of negotiating contract, but we will not negotiate just on certain issues."⁴¹ At this point the Mediator asked for a caucus with the union representatives.

³⁹ Ted Prusia, LSW recording secretary, took down Johnston's statement in these words: "We are here and willing to meet. We are here at your request to meet with the companies with whom we have contracts We are not, however, willing to meet for bargaining purposes with an association that refuses to settle on all issues for all of our plants on a contract. This group of employers has refused to bargain on a [master] contract. Some of these employers have locked us out. Unless the companies are willing to negotiate on a contract then we refuse to recognize them as an association but we will meet with them as separate companies." The word "exploration" does not appear in this quotation. The use of that word in his testimony suggests that Johnston was familiar by that time with *The Great Atlantic and Pacific Tea Company*, 145 NLRB 361, decided in December of 1963. The Board there affirmed the decision of Trial Examiner Funke which had been issued on August 28, 1962. The foregoing notes also quote Johnston as saying, "We have been advised by each separate company that this association does not have the authority to negotiate on health and welfare—and other local issues."

⁴⁰ The complaint does not allege a refusal to bargain.

⁴¹ The notes taken by the Association's secretary at this meeting quote Johnston as saying, "Not saying do not want to bargain with Association. Do want to get contract with Association."

Having done so, the Mediator then met with the Association's committee. He informed them that the Union had indicated a willingness to listen to any change of position that the Association wished to state. Upon return to the meeting, the Association stated a modified position on some issues and made a new wage proposal, which Hartley rejected as insufficient. The meeting broke up subject to call.

At the end of the meeting on July 1, Johnston distributed to the representatives of the several companies, enclosed in sealed envelopes, letters dated July 1. These letters read:

We meet with you today, as we have during the course of our past meetings, solely on the basis that your Association is not an appropriate unit for bargaining as a multi-employer unit, and we do not consent to the exclusions of subject matter, geographical areas and plants heretofore suggested by you. We desire to make it clear that we treat the Association as nothing more or less than the agent of each of the respective employers present, with whom it is our duty to bargain, as required by the National Labor Relations Act.

It is our view that each employer present is required to bargain on all those issues opened by each of the employers or by the Union in their opening letters to their respective employers.

This letter was signed by Hartley. Wyatt did not read this letter until after the meeting broke up. The respective companies answered the letters of the LSW of June 28 and July 1 at a subsequent date. The replies were not uniform, but each company took the position that the LSW had agreed to bargain with the Association and that the employers were agreeable to continue to meet on the same basis. In Wyatt's reply letter, he stated "Your volunteered statements constitute a belated attempt to negative specific prior acceptance on your part of the appropriateness of said multi-employer group and bargaining-in-fact on such basis and are obviously made in a self-serving effort to support unfair labor practice charges recently filed by your Union in the Regional NLRB Office against member companies of this Association.

On July 9, Nelson telephoned Wyatt to say that the committees of the IWA and LSW had been meeting the day before to discuss what he called a "revised minimum position" of the unions and he asked if he could meet with Wyatt. Wyatt said that he would like to do so and would like to bring some members of the Association's committee along. That evening, Wyatt, accompanied by George Kelsey, of International Paper, and by Frank Doherty, of U. S. Plywood, met with Nelson and Hartley at a hotel in Portland. Wyatt explained that the negotiating committee of the Association had met that afternoon and decided that, because there were only two representatives of the unions, only two committee members should accompany Wyatt. According to Wyatt, either Nelson or Hartley began by making a statement of the revision which the unions wished to mention. Wyatt then commented that he thought the change in the unions' position was lateral only, and that he did not think the Association would be interested in it. Doherty said that it looked to him like the unions were working to prevent the Association from succeeding as an entity. Wyatt quoted Nelson as replying to this that he did not consider this to be the case and that, as he had previously said, "We think this was a desirable move" and that it was too bad the Association had got into trouble the first year.⁴² There was some talk at this time about the desirability of scheduling another meeting. I deduce that the parties agreed to a meeting on July 15 but that the meeting that was held that day was actually arranged by the Federal Mediation and Conciliation Service.

At the meeting held on July 15, representatives of both unions met with the Association. At the opening of the meeting, Nelson handed to Wyatt a written statement reading as follows:

In view of developments which have transpired since these negotiations commenced, I think it desirable to make a statement to you concerning the relationships

⁴² Nelson was not questioned about this meeting. I accept Wyatt's account of the meeting.

of this Union with the 6 companies comprising your "Association."

While we recognize that each one of the Companies here have the right to delegate their bargaining authority to any one or any organization of their choice and we have met with you and will continue to meet with you as a result of each one of the Companies here having previously delegated its bargaining authority to the "Association" on a specified listed number of items but in doing so, we wish it clearly understood we have not from the beginning considered, nor do we now consider, the "Association" as an association constituting a multi-employer bargaining unit.

In addition, we are also prepared to meet with those of you who have contract openings for which the "Association" does not have bargaining authority.

Following this, Hartley read the statement from his letter of July 1, previously quoted. Accompanying Nelson and Hartley were representatives of the IWA and LSW, but Johnston was not at this meeting. In addition to the Association's committee, a number of lawyers for the respective companies were present. Following the reading of the statement by Hartley, Wyatt commented that he guessed the meeting was over. However, the Association's committee and the attorneys left the room in a caucus and when they returned, Wyatt handed to Nelson and Hartley the following written statement:

This Association is here today to negotiate in good faith on the same basis [on] which the parties have negotiated from the beginning. The IWA & LSW apparently now condition further negotiations upon a change in the bargaining relationship. The Association desires to reach an agreement and has prepared a proposal with this in mind. The Association regrets this decision on the part of the unions and views it as a most unfortunate lack of awareness of employee & public interest. The Association is unable to accept

these conditions but is willing to continue meeting on the only basis upon which this Association has authority to meet with you.

Wyatt hesitated to proceed without a further statement by the unions. Nelson commented that the written statements made by the several parties were self-serving statements and that there was nothing in them to require anybody on the other side to agree with them, and suggested that they "get on with the show."⁴³ Wyatt asked for another caucus and when he and the committee returned, Wyatt began to make a bargaining proposal with respect to all of the issues between the parties. In doing so, he read from a written statement entitled "Settlement Agreement." After reading from this, he handed a copy to each of the unions. It is unnecessary to detail the terms of this offer. It is sufficient to say that the wage offer (the subject the unions were most interested in) was somewhat increased. The unions took a caucus and returned to reject the offer. That ended the meeting.

A July 19, 1963, letter to IWA members, over the signature of Nelson, gave an account of the proposal made by the Big Six on July 15 and the rejection thereof by the IWA committee. Nothing in Nelson's letter indicated a breaking off of negotiations with the Association in an effort to bargain separately with individual members thereof. The letter mentioned a meeting, to be held on July 28, of the IWA negotiating committee, executive committee, and advisory board, at which one of the items of business was to consider the sentiments of the employees regarding the negotiations to date.

On August 2, 1963, the executive committee of the Association met and reached a decision on a course of action regarding the lockout. This resulted in the sending by the Association of letters dated August 4, 1963, to IWA and LSW. These letters, identical in content, informed the respective unions that, beginning on August 7, work would

⁴³ The IWA's notes of this meeting quote Nelson as saying, "We did not bring our attorneys here. We're here to bargain not litigate legal proceedings."

be resumed at all plants shut down on or after June 7 and that work would then be available for employees of all members of the Association. The letters stated that employees would be paid on the basis of their wages on May 31 as modified by the offer made to the unions on July 15, 1963. The letters requested notification of the position of the unions on this within 10 days and stated that the contents of the respective letters, except for announcement of the resumption of work would not be made public or revealed to employees until after the unions had had an opportunity to consider the offer "between now and the close of business on August 15." The letters also offered to meet and bargain with each union regarding "the implementation of our entire offer of July 15, 1963."

On about August 5, 1963, the Association released to the press an announcement of resumption of operations on August 7 by the respondent companies. The statement explained that the step was taken "upon review of recent developments involving other lumber industry firms and the two unions." Wyatt testified that the "recent developments" included a recommendation by TOC that its members unilaterally put into effect the terms of their last offer, the fact that three other large independent companies were on strike, and the fact that a settlement had been reached by IWA with Simpson. Another announcement was made to all supervisory personnel instructing them to answer any inquiries by saying that wages, hours, and working conditions, upon resumption of work, would be those in effect before the shutdown. Each company, through the various managers, gave notice to the employees of the hour of resumption of work on August 7. U. S. Plywood, which had closed two unstruck operations on June 7, announced, under date of August 6, resumption of operations there on August 7. and announced that work had always been and still was available at the struck operations to any employees who wanted to work.

Between August 2 and August 13, 1963, the negotiating committee of the Association had meetings with Nelson and Hartley, without their committees, but made no progress toward settlement. On August 12, 1963, however, under

the auspices of the Federal Mediation and Conciliation Service, the negotiating committees of the Association and the two unions met. The union spokesmen announced that they were meeting subject to the same statements (verbal or in letter form) that they had made on July 15. Wyatt again questioned the significance of this. One of the two mediators present said that they had been all through that before and that no one was being asked to agree with anyone else's position. Nelson confirmed this. Wyatt said that there was only one basis on which his committee could be there and that was as an association composed of six members and not as six individual companies. After both sides had expressed willingness to proceed, Wyatt, following a few remarks about settlements reached elsewhere, asked for a recess to the following day. This was agreed to.

On the following day, when the meeting resumed, Wyatt made a new settlement proposal which included a 30½ cents wage increase over 3 years, a provision regarding concerted refusal of employees to work overtime, a provision for automation and classification committees, and an agreement to close out all local issues. The Unions asked about the omission of a provision for pro rata vacation pay in event of early retirement and other questions. The Association retired and returned to include in its offer the pro rata vacation pay and other minor matters. The unions then caucused and returned with suggestions for a few minor modifications which were agreeable to the Association. After ironing out a few more problems, the parties got busy on drafting the final settlement agreement. Wyatt sought a statement therein that would have committed the unions to an extinguishment of the basis for their unfair labor practice charges, but the unions refused to include it. The settlement, in its final form, was signed by the chairmen of each of the negotiating committees, Hartley, Nelson, and Wyatt on behalf of their organizations. A separate list of subjects remaining open between individual companies and the unions on excluded subjects was signed by Wyatt to avoid any question that they might have been closed out of separate

bargaining by the settlement agreement.⁴⁴ The unions submitted the settlement agreement to their locals for ratification and, in due time, notified the secretary of the Association of their ratification.

9. Conclusions

The General Counsel attacks the Respondents' use of the lockout by arguing (1) that no valid multiemployer group had been established which could justify the defensive use of the lockout and (2) that, even if such an organization came into existence, it could not justify use of a lockout because an "established bargaining practice on the basis of the multiemployer unit" was lacking. These contentions are then broken down by the General Counsel into subdivisions corresponding to evidentiary facts. Most of these will be considered.⁴⁵

The General Counsel's argument regarding the validity of the multiemployer group deals mostly with the topic of lack of solidarity. However, his argument frequently refers to evidentiary items which, he appears to argue, impugn the good faith of the corporate Respondents and even the fact of their organizing as a group. I find the evidence of the Respondents regarding the creation of the Association to be convincing on its face, and the evidentiary facts with which the General Counsel seeks to cast doubt upon the reality of the Association's organization merit little attention except insofar as they relate to the question of the solidarity of the multiemployer group. Even in this connection, however, the arguments of the General Counsel and of the Charging Parties often relate more to

⁴⁴ This list covered pensions at both Weyerhaeuser and St. Regis, an agency shop agreement at Weyerhaeuser, and the unclosed 1961-2 bargaining between Weyerhaeuser and LSW at one branch.

⁴⁵ Some of the General Counsel's contentions strike me as so obviously lacking in merit that they require no comment. As an example, but not the only one to be found in his brief, is the contention that the word "voluntary" when used in the Association's organizing agreement in describing the Association as a "voluntary multiemployer association" by any legal definition means "not binding." I find that "voluntary" signifies "willingly," i.e., without compulsion.

the genuineness of the Association than to its solidarity. For example, the General Counsel argues that the members of the Association were so obsessed with the desire to gain a right to treat a strike against one as a strike against all, that they set up a sticks-and-straw facade without earning the lockout privilege by a good faith commitment to the responsibilities of association bargaining. Between the General Counsel and the Charging Parties, they either argue or assume that the Association lacked genuineness for the following reasons: because it failed to show the unions its formation agreement; because, instead of requiring a simple majority to decide bargaining positions among themselves, the formation agreement required a decision by a majority of 75 percent; because the Association was never given authority to bind its members on many major issues (i.e., those excluded from association bargaining); because the Association's formation agreement was "not binding"; and because the Association was a "one-shot sham." Other contentions also are implicit in their arguments.

To say that the corporate Respondents were motivated by selfish interests in forming an association is not to say that the resulting association was a sham. Self-serving reasons, to a large degree, probably influence the formation of many, if not all, employer bargaining associations, and among employers' reasons for forming associations for the purposes of bargaining undoubtedly are (1) a desire to reduce cost differences affecting competition in business and (2) a desire to gain an advantage in bargaining with labor organizations both through the ability to take firmer positions in bargaining and the ability to resist the use by unions of economic force in an effort to soften that firmness. Unions likewise are motivated by private interests when they favor creation of a multi-employer unit, as was noticeably demonstrated by LSW's expressed desires, in this case, to protect its locals from raids by other unions.

The General Counsel has not alleged a violation of Section 8(a)(5) of the Act but has nevertheless questioned the good faith of the Respondents not only in organizing an association but also in the bargaining itself. The General

Counsel sees the members of the Association as lacking a genuine intent to bargain jointly and reach a common settlement agreement binding on all members. I find no cogent evidence of lack of good faith in either formation or in bargaining. If the members had intended that the Association would be actually only the designated bargaining agent for each company individually, the Association could have bargained for a separate settlement for U. S. Plywood on its hours-of-labor openings which would have been different from the amendments sought by other members, and it could have excluded U. S. Plywood from the amendment on hours of labor sought by others. This was not the Association's objective. To the extent that contract subjects were open and did not concern the excluded subjects, the Association was bargaining for, and ultimately reached, a settlement uniform as to all members. Collective bargaining frequently takes place in a poker game atmosphere, with some bluff, with high cards kept strictly secret, and with calculated bidding. Such techniques were used here by both sides in their 1963 bargaining, but each understood it and thought none the less of the opposing bargainers for it. Not only do I find no evidence of bad faith bargaining, but I seriously doubt that either Charging Party thought there was bad faith bargaining. The attitude of the unions was rather one of disappointment that the Association could not be induced to increase its wage increase offer more substantially before the strike.

At one point in his brief, the General Counsel speaks of the Association as a "one-shot deal." In arguing this allegation, he points to an interoffice memorandum prepared by a Weyerhaeuser manager under date of June 6, 1963, which contains the statement:: "The agreement which was signed (by Weyerhaeuser) with these six companies only covers the 1963 bargaining sessions at present." The writer of this memorandum was not called as a witness to be questioned about this statement, but I interpret it to be a reference to the written association agreement signed by the six companies on various dates between April 15 and April 22, 1963, and specifically to the last paragraph thereof which permitted any member to withdraw from the

Association and terminate its membership by giving notice to all other members and to the appropriate unions prior to March 1 of any year. A change of membership in multi-employer associations is not an unusual practice and, as long as the withdrawal occurs at an appropriate time and is with notice to the other parties involved, the right to withdraw has always been recognized as proper and as not affecting the remainder of the multiemployer group.⁴⁴ Consequently the provision in the Association's agreement which permits withdrawal of members does not derogate from the Association's validity or authority to speak for its members. Obviously, withdrawal of membership after a contract has been entered into does not affect the binding force of that contract and, in this case, where the agreement reached was for a 3-year term, withdrawal of membership before the expiration of that term would not affect the binding force of that contract. I find no merit, therefore, in the General Counsel's contention that the Association was a one-shot deal.

The General Counsel, in arguing lack of solidarity, seems to question the fact of organization of the Association by pointing to evidence that, even after an oral agreement for an association had been reached on April 12, 1962, Wyatt, in communicating this fact to other parties, had mentioned the formation cautiously, in less than positive words. I do not interpret those expressions of Wyatt's as inconsistent with his testimony of the formation of the Association. Wyatt, at the hearing, demonstrated that he was disposed to be careful in his choice of language. It does not impress me as out of keeping with such a disposition for him to be cautious in his assertion of the formation of the Association before the written agreement had been signed.

The General Counsel also attempts to cast doubt on the very existence of the Association's written organizational agreement (presumably suggesting that that document was

⁴⁴ *Seattle Automotive Wholesalers Association*, 140 NLRB 1393; *Cooks, Waiters, and Waitresses Union, Local 327*, 131 NLRB 198; *Cosmopolitan Studios, Inc.*, 127 NLRB 788; *Detroit Window Cleaners Union*, 126 NLRB 63.

prepared for the first time after the charges were filed) by pointing to the fact that when Johnston, at the first meeting of LSW with the Association asked to see the agreement, Wyatt, in effect, declined to show it and to the fact that, in the California Unemployment Compensation hearing, at one point Wyatt testified that one member of the Association could veto any action by the Association (this being inconsistent with the provision of the Association's written agreement, which provided for decision by 75 percent of the members). With regard to failure to produce the agreement for Johnston's inspection, I find that this falls short of proving the nonexistence of the agreement. Wyatt was not pushed by Johnston to the point of being required to show the agreement or to suffer the consequences of a refusal by LSW to enter into an association-unit course or bargaining; and, again, Wyatt, as the General Counsel appears to concede, might have believed it more in the interest of the aims of the Association—to induce bargaining by LSW—if disclosure of the 75 percent rule were not made unless a specific question about the number of votes of members necessary to carry a decision were asked. I note that Wyatt truthfully answered the direct questions put to him by Johnston concerning the nature of the Association and specifically the one about whether the Association's agreement contained a provision giving it the right to look upon a strike against one as a strike against all. Regarding Wyatt's mistaken testimony at the California Unemployment Compensation Claims hearing, I find that, later in Wyatt's testimony at that hearing, he corrected himself by stating that two negative votes would be needed to bar an action by the Association. Furthermore, it is not difficult, when one is thinking of the number of affirmative votes needed to carry a decision—5 out of 6 (or, in the case of LSW, 4 out of 5)—to confuse this difference of one with the negative number of votes required to defeat an action—actually two.

The General Counsel argues, however, that, even if the agreement had been in existence, the Association's 75 percent rule casts doubt on the Association's binding authority, arguing that such a condition was more obstructive of industrywide industrial peace than single employer bar-

gaining. Since the overriding policy of the Act, he argues, is to promote industrial peace, "it would thus seem that any multiemployer bargaining group requiring considerably more than a simple majority for activities is no more possessive of lockout-legalizing solidarity than is an independently bargaining employer." A reading of the decisions of the Board leads me to the conclusion that the degree to which an employer forfeits individual freedom of bargaining is not a good test of the requisite solidarity of a multiemployer group. In instances where only two employers are joined together for bargaining purposes, a unit rule—100 percent—would be required to carry a decision about a bargaining position; yet the right of one of the two to resort to a defensive lockout in the event of a strike of the other has not been negated because of that fact.⁴⁷ Conceivably, in practical operation, a single strong employer might succeed in bending the will of all other members to his thinking, in which case even a provision for a bare majority would be of no consequence. A reduced degree of flexibility is one of the recognized consequences of multiemployer association bargaining. Unions know this, but when they can gain an advantage themselves through bargaining on a multiemployer basis, they may decide that the value of the larger unit protection outweighs the value of the flexibility in individual bargaining. If a labor organization is actually concerned about the number of votes required by an association to carry a decision, it has only to ask. The LSW did not do so.

The brief of LSW appears to argue that bargaining for a common settlement on only a few subjects is not enough to create a multiemployer unit. The companies had opened only on a few subjects and so had the unions. Had the unions opened their entire contracts for revision, there might perhaps have been more force to such a contention. But the fact is that the openings of each union were limited and the two regional councils had been delegated authority by their locals to bargain only as to such union openings. In considering the degree of contract uniformity which might be the basis for a multiemployer bargaining unit

⁴⁷ See *Safeway Stores, Incorporated*, 148 NLRB No. 76.

here, we must not ignore the bargaining practices in the northwest lumber industry. These practices differ from those to be found in other cases in this respect, that the bargaining and resultant agreements here are looked upon as effecting amendments to local contracts which otherwise continue undisturbed. This is evident from the delegations of authority to bargain. The delegations of authority by local unions to regional councils is not a delegation of authority to negotiate a new contract, but is an authority to reach agreement on certain specific amendments desired by the locals in their contracts, as well as an authority to bargain on all amendments sought by employers. So too, members of employers' associations delegate to such associations authority to bargain about all changes sought by the unions, but, on the other side, limit authority of the association to bargain for amendments sought by the employers to specific contract clauses. Before a certain date, each side gives the other notice of specific contract clauses which they wish to open. Whether or not the locals or the companies, having given such notice of opening, could insist upon bargaining concerning amendments to other clauses in their contracts not mentioned in their opening notices is not the important question here,⁴⁸ because, insofar as either delegates authority to bargain to an agent, such agent is limited by the scope of the delegation.

Neither the fact that the employers involved do not have completely uniform contracts, nor the fact that joint bargaining in any one year would not result in uniform contracts, should bar the parties (employers and unions) from entering into a consensual arrangement in advance for a multiemployer unit in which to engage in collective bargaining on major subjects concerning which the employers intend to be bound as a group.⁴⁹ Not only is the limitation

⁴⁸ I note that the parties never protested additional openings, once notice of desire to open had been given. By contract, only notice of desire to open must be given 60 days before contract expiration date. The amendments desired are not required specifically to be given. Notice of the type of amendment desired appears to be more a matter of practice than of legal requirement.

⁴⁹ See *The Kroger Co.*, 148 NLRB No. 69.

on bargaining imposed by custom or agreement no obstacle to bargaining in a multiemployer unit but it is likewise no obstacle that the parties sign separate contracts. The Board said, in *Balaban & Katz (Princess Theatre)*, 87 NLRB 1071 at 1073, "We have held that neither the lack of a formal association of employers, nor the fact that the results of joint negotiation have been incorporated in separate uniform contracts precludes the establishment of a multiple-employer unit." It is not contended that the employers here did not all uniformly incorporate the terms of the association-bargained settlement in their separate contracts.

A closely allied topic is the express reservation of specific and relatively important subjects of collective bargaining for individual bargaining. The General Counsel refers to the reservation of the subjects of union security, pensions, health and welfare, and strictly local openings which were customarily bargained at the local level as another indication of alleged lack of solidarity. The General Counsel contends that the Board's decision in *The Kroger Co.*, 148 NLRB No. 69, where the Board found that exclusion of pensions by one company did not destroy the solidarity of an employer association, is not controlling here, because, the General Counsel argues, here the exclusions were unilateral whereas in the *Kroger* case, the privilege to bargain individually on limited matters was mutually recognized.⁵⁰ I see little or no distinction between that case and this. In fact that case was a closer one, because only one employer refused to include pensions in bargaining. The union there actually demanded, and succeeded in getting from the remaining employers, as a result of association bargaining, a pension provision in the contract which the association negotiated, but it was unable to reach agreement on pensions with the objecting employer. The Board there said:

⁵⁰ Here the unions had advance notice of the exclusions. In the *Kroger* case no advance notice was given, and the objecting employer walked out of the meeting when the union and the other employers began to bargain on pensions. No action could have been more unilateral than that, at least not before the union had made the best of the situation and had attempted, through individual bargaining with the single employer, to reach a separate pension agreement.

The problems of each member of a multiemployer group are understandably not always identical. While it may be to the best interest of the employers and labor organizations involved to bargain as a group about all matters of general concern—the obvious reason for the formation and continuation of any multiemployer unit—it may likewise be in the best interest of all concerned not to burden the group negotiations with the limited problems of an individual employer. Hence, we do not believe that the exercise of a mutually recognized privilege to bargain individually on limited matters . . . is inconsistent with the concept of collective bargaining in a multiemployer unit.⁵¹

It may well be that the unions here could initially have refused to bargain collectively with the Association unless the excluded subjects were included, or they could, perhaps, have placed the Association in a position of having refused to bargain in violation of the Act,⁵² if the Association had refused on request to bargain on such excluded subjects. But the unions took neither of those two courses. In fact, Nelson made it quite clear in advance, that the exclusion of union security, pensions, and health and welfare was not objectionable as far as IWA was concerned. Furthermore, IWA did not change its mind about this—it made no attempt to bargain with the Association on those subjects. It merely made certain, after settlement had been reached, that the settlement did not close out individual bargaining on excluded subjects. As for LSW, Hartley had told Wyatt, when Wyatt consulted with him in February, 1963, that he personally saw no problem in the exclusion of those subjects. Johnston, for LSW, testified, it is true, that he stated at the opening meeting with the Association that LSW could not recognize and bargain with the Association unless they could bargain for all areas and all issues. However, I find no evidence that LSW at any point in the 1963 negotiations sought to bargain with the Asso-

⁵¹ See also *Carnation Company*, 90 NLRB 1808.

⁵² See *Pacific Coast Association of Pulp and Paper Manufacturers*, 133 NLRB 690, enf'd 304 F.2d 760 (C.A. 9).

ciation on any of the excluded subjects. Although Johnston testified that he outlined the problems of LSW in connection with health and welfare, he did not include health and welfare in any of the LSW demands made on the Association. In fact, the Western Council, LSW's bargaining agent for industrywide demands, had not, so far as appears, been authorized by its locals to bargain in 1963 negotiations about any subject other than wages, a 3-year contract, and employer openings. Furthermore, LSW was bargaining with TOC on the health and welfare trust previously established through that association.⁵³ Johnston professed not to know that his bargaining authority was limited in bargaining with the Association. In any event, Johnston's statement about bargaining on all issues amounted, under the circumstances, to no more than a statement that LSW was not permanently waiving the right to bargain about health and welfare or other subjects if LSW should recognize and bargain with the Association on a multiemployer unit basis. It is apparent, therefore, that the excluded subjects in no way diminished the solidarity expressed in the Association's agreement of an intention of the members of the Association to bargain jointly and be bound by the result of their joint bargaining.

The General Counsel also attacks the Association as not a valid multiemployer bargaining group by asserting that the Association was unable to bind its members because of the exclusion of several operations—that is, plants. Each one of the members of the Association had operations at different locations. The evidence does not disclose the existence of member-company plants other than in the three Pacific Coast states and Montana, although there is a suggestion in the record that Weyerhaeuser might have plants

⁵³ Although three LSW local unions had opened their contracts on health and welfare, one had withdrawn its request before the first meeting between LSW and the Association. The amendment requested by a second local was merely to get a list of employees for whom the employer had made contributions, a matter conceded to be unnecessary to be taken up at the Western Council-Association level. The third local to open on health and welfare—a belated opening after the 60-day notice date—specifically stated that it wished to negotiate thereon on a local level. None of these three locals, therefore, delegated any authority, mediately through district councils, to the Western Council.

or operations elsewhere. No objection was raised concerning the exclusion of any plants (if there were exclusions) by any except those of St. Regis and U. S. Plywood. If any others were excluded, the Unions concurred in the reason therefor. However, at the outset of the LSW meetings with the Association, there was some question about the exclusion of certain plants by U. S. Plywood and St. Regis. Because the operations intended by the members to be covered by the Association agreement were all west of the Cascade Mountains in the three Pacific Coast states and because some of the operations of United States Plywood not listed in that company's letter to LSW were in California, a valid question was raised. However, before bargaining proceeded between the Association and LSW, U. S. Plywood came to agreement with LSW on the inclusion or exclusion of those plants in California. Still, LSW did not like the exclusion of operations of member companies east of the Cascades from the bargaining format established by the Association's members, because LSW was attempting to include in an association unit all locals in its Western Council region in order to protect all its locals from raids by other unions or from piecemeal decertification. But since it failed to convince the affected members of the Association that they should include plants or operations east of the Cascades, LSW was placed in a position of making a choice either of refusing to bargain on a multiemployer basis and insisting on individual company bargaining or of accepting the bargaining unit offered. It could not compel acceptance of its proposed unit and it could not accept multiemployer bargaining with the Association except on the terms of the offer made to it. I am unable to see any merit to the argument that failure to include some plants in the format offered to the unions by the members of the Association in any way affected the validity of the Association or affected the solidarity of the group covered by the Association's agreement if LSW accepted the unit offered as an appropriate one. Whether or not LSW, in fact, accepted the unit offered by the Association is a question to be dealt with later.

Another attack by the General Counsel on the validity or solidarity of the Association is based on "inability to

bind a single one of its members without that member's specific consent regardless of the collective will of 51 percent, or 75 percent, or 99 $\frac{1}{100}$ percent, of the other members." This argument intentionally ignores the expressed agreement of the members of the Association to be bound by the results of the collective bargaining and takes its ammunition from the fact that the Association, because of hasty organization, had some apparent overlapping of local and industry openings. Both U. S. Plywood and an IWA local union had made local openings on hours of labor, one of the subjects for proposed bargaining by the Association. These local changes were not sought by U. S. Plywood at all its plants represented by IWA locals, and, before authorizing the Association to bargain for it on the three industry openings, U. S. Plywood had not opened generally on hours of labor.⁵⁴ However, because changes in hours of labor was one of the topics on which members of the Association wished to bargain, Nelson raised a question as to what would be settled by an association settlement agreement on this subject. Following the Association's assurance (with the approval of U. S. Plywood) that any U. S. Plywood openings even arguably conflicting with the industry-sought provisions on hours of labor would be controlled by any association negotiated agreement, any objection the IWA would have would not be based on lack of authority by the Association to bind its members. The objection would go more to the mechanics of bargaining. Neither Nelson nor Hartley had expressed any criticism of the exclusion of local issues from association bargaining when such exclusions were first mentioned to them by Wyatt in February 1963. And even in April, Nelson never actually did disagree with the proposed exclusion of local issues from association bargaining. He merely sought to avoid a possible conflict in provisions negotiated at two levels. For example, the Association desired two changes

⁵⁴ The fact that U. S. Plywood did not specify in its original openings and before the sending of its letters to the unions notifying the unions of delegation of bargaining authority to the Association that it wished to bargain through the Association on the industry opening of hours of labor was not, in itself, objected to by the IWA or LSW.

in the hours of labor provisions of all contracts. One was a change to permit a Tuesday to Saturday schedule for maintenance employees without premium pay for Saturday work; the other was an amendment which would give members the right, for periods of time determined by them, to establish 'round-the-clock three-shift operations without incurring an obligation to pay premium pay for Saturday or Sunday work as such (meaning premium pay for working on those days even though the employee working on those days had not exceeded or would not exceed 40 hours a week). One IWA local at a Seattle operation of U. S. Plywood had opened on hours of labor with regard to "the assignment and duration of work shifts." Conceivably, an agreement based on the Association's proposal for changes in hours of labor might conflict with the amendment desired by the local union, and Nelson apparently did not wish to foreclose the local from gaining its objective. He, himself, would not have been involved in the local's bargaining on its own opening. The difficulty, from the IWA point of view, could have been worked out either by the mechanical device of bringing local bargaining into the Association's negotiations⁵⁵ as proposed by the Association, or by bargaining at one or the other level on that subject first and then leaving the other level (i.e., the local or the Regional Council) free to bargain regarding any amendment not in conflict with the first one to be settled. From the suggestions which were made by Nelson and Wyatt for handling this problem, I infer that the IWA wished to limit the scope of any association-sought amendment by settling the local's desired amendment on the local level first and then requiring that the association-sought amendment not be in conflict therewith, whereas the Asso-

⁵⁵ Nelson's objection that the Regional Council was not authorized to speak for the local would have no basis in this event because the local would be speaking for itself. IWA was authorized to bargain local employer openings for local unions and could have done so at the association level. Nelson's proposal to bring the local's representative and the plant manager to Portland to bargain on the local's opening, separate from the Association, before the IWA and the Association began to bargain about hours of labor makes it rather obvious that Nelson did not wish the local to be limited by the result of the Association's bargaining.

ciation sought a contrary order of negotiation and limitation, or at least a concurrent settlement, in either event controlling the local settlement so as not to conflict with the amendment sought by the Association for all contracts. None of the mechanical details of settling this problem, however, in any way, derogated from the Association's authority to bargain for, and bind, its members on the amendment sought on hours of labor by the Association—and certainly not after the Association had announced U. S. Plywood's agreement, and the Association's proposal, to bargain the local openings with the local representatives at the Association's table in the presence of the higher-level union representatives. This is not to say that a union could not require agreement on the mechanics of bargaining as a prerequisite to acceptance of the multiemployer bargaining unit, but, in the instant case, that would be separate and apart from the question of the Association's authority to bargain.

A portion of the General Counsel's brief reads: "The association's lack of solidarity was yet more dramatically shown during the April 25 recess conversation between Wyatt and Nelson, when Wyatt, revealing that he 'did not know if U. S. Plywood was going to stay in or get out,' beseeched Nelson to 'find a way to go along' with the association's lack of authority concerning U. S. Plywood." As of that date, perhaps IWA could have taken the position that, because agreement had not been reached on the mechanics of bargaining, the IWA had not yet agreed to bargain within the multiemployer unit offered by the Association. If there was yet a lack of agreement on the creation of a multiemployer bargaining unit, U. S. Plywood no less than IWA could probably have withdrawn. Restrictions on withdrawals from multiemployer bargaining cannot be imposed before a multiemployer unit is established by agreement between employers and union or by some other recognized way. It appears to me that all that Wyatt was saying to Nelson in that off-the-record conversation was that, if Nelson pushed too hard to eliminate U. S. Plywood local openings, not conflicting with the Association's hours-of-labor objectives, as a condition to recognition of the Asso-

ciation as a multiemployer bargaining unit, U. S. Plywood might withdraw and bargain on the previously established company basis. Any lack of solidarity would have been produced by IWA's refusal to accept the unit rather than by any organizational deficiency on the part of the Association.

The LSW brief argues bad faith on the part of Respondents and lack of power, both, in criticizing the Association for its unwillingness to agree to Johnston's concept of a master contract. Johnston was apparently of the opinion that nothing less than a master contract would give the LSW the protection it desired for its locals from raids and piecemeal decertifications, because he appeared to believe that it was insufficient that the Association had been given the power to negotiate on all union openings. Actually, a master contract was neither a topic of opening by anyone in advance of the first IWA-Association meeting nor was the Western Council of LSW given specific authorization to bargain about such subject by its locals. Insofar as the Western Council and the Association could discuss various phases of a master contract without amending a local's contract to conform with that of another local, perhaps the Western Council needed no specific authority from its locals, but such discussion would merely settle a frame of mind about an ultimate aim for a master contract. It could not result in a genuine master contract. In any event, however, the unwillingness of the Association to accede to the Union's request (at least in the first year of bargaining) for a master contract does not prove that the Association lacked adequate bargaining power to constitute a basis for a multiemployer unit. The Association did not refuse to bargain about a master contract. It was merely unconvinced that a master contract was needed or desirable and so refused to agree to one.

The main thrust of the General Counsel's argument is that, even if the Association was validly organized and had the requisite authority to bind its members, it failed to achieve the status of a multiemployer bargaining unit, first, because bargaining for "a substantial period of time" was alleged to be essential to the establishment of such a unit

and, second, because, even if a multiemployer bargaining unit could be established in a first-time bargaining situation, it could only be established, according to the General Counsel, if the unions waived their statutory right to bargain on the pre-existing single-plant or single-company basis in clear and unmistakable language.

I do not regard waiver, as a term of art, to be involved here. Rather this case involves a question of a deliberate choice between mutually exclusive rights. With regard to the contention that the Association failed to achieve the status of a multiemployer bargaining unit because bargaining had not continued for a substantial period of time, more must be said. As a matter of policy, the Board has not, without the concurrence of a union and a group of employers, seen fit to initiate a multiemployer bargaining unit. But the Board does not oppose the establishment of a multiemployer bargaining unit by agreement of the parties, and, if they do so agree, and no other labor organization seeks to represent a smaller appropriate unit, the Board will recognize such multiemployer unit as appropriate, and will, in a proper case, direct an election on such basis.⁶⁶ Reference by the Board to "bargaining history" or to bargaining on a multiemployer basis for "a substantial period of time" usually appears in cases where a claim is made by a labor organization to represent employees in a smaller unit.⁶⁷ If the multiemployer bargaining unit has not been established through certification of a union and if another labor organization is seeking a certification in a smaller unit, the Board may refuse to recognize the larger unit as a bar to a finding of a smaller appropriate unit where the bargaining history in the multiemployer unit covers less than one year.⁶⁸ When, however, no party is seeking a smaller unit, bargaining history is not a prerequisite to finding a jointly

⁶⁶ *The Ross Exterminator Company of Northern California, Inc.*, 143 NLRB 59, 60-61.

⁶⁷ *Donaldson Sales, Inc.*, 141 NLRB 1303; *Carbondale Retail Druggists*, 131 NLRB 1021; *Arden Farms*, 117 NLRB 318.

⁶⁸ For a full discussion of the various situations where bargaining history is a factor to be considered, see *U. S. Pillow Corporation*, 137 NLRB 584.

agreed multiemployer unit appropriate.⁵⁹ In such a case, the agreement of the affected parties, alone, to create a multiemployer unit suffices, even on a first-time basis, to create such a unit.⁶⁰

In this case there was no history of bargaining in the unit proposed by the Association. But if the Association and the respective unions chose to agree to its appropriateness, they were free to do so since no other union was claiming to represent employees in a smaller unit. The General Counsel contends that IWA and LSW did not choose so to agree. The Respondents, on the other hand, claim that there was a tacit agreement evidenced by actual bargaining. In the law of contracts, an agreement may, of course, be either express or implied. Since the unions in this case did not expressly state that they were agreeing to the establishment of the multiemployer bargaining unit tendered by the Association, such an agreement may be found only if the words and actions of the representatives of the labor organizations concerned demonstrate an intent to bargain on the multiemployer basis offered by the Association.

The General Counsel and the Charging Parties rely on the Board's decision in *The Great Atlantic and Pacific Tea Company*, 145 NLRB 361 (herein for convenience referred to as the *A & P* case), where the Board held that the use of a lockout by an association of employers after one of the members was struck was not a valid defensive use of the lockout because the union there had not accepted the multiemployer unit as appropriate, although it had met with the employers several times and had exchanged bargaining demands. The Board held that the union, in meeting with that association, was just exploring the possibility of bargaining on a multiemployer unit basis.

The General Counsel's case here was presented with an apparent view toward bringing it within the mold of the *A & P* decision. Similarities between that case and this do exist, but so do differences. In any event, the decision

⁵⁹ *Western Association of Engineers, Architects, and Surveyors*, 101 NLRB 64; *Broward County Launderers & Cleaners Association, Inc.*, 125 NLRB 256; *Safeway Stores, Incorporated*, 148 NLRB No. 76.

⁶⁰ See *Safeway Stores, Incorporated*, 148 NLRB No. 76.

in any other case, based on its unique facts, can only serve in the instant case as a direction pointer where the controlling facts are not identical. The Board recently had reiterated that

the Board in resolving an issue of whether or not a lockout is of a justifiably defensive character, will make its determination only upon full consideration of all surrounding facts and circumstances in the particular case before it.⁶¹

I do not read the decision of the Board in the *A & P* case as saying that a union and an association of employers fail to bind themselves to a multiemployer unit, although they mutually agree to do so, where such mutual agreement is not express but is implied from the fact that they engage in collective bargaining. Rather, in that case, the Board found that the "negotiations" between the union and the employers' association were insufficient to evidence a clear agreement by the union to bind itself to the multiemployer unit format. At the first meeting in that case, the association indicated that the uniformity desired by the union in all agreements with the members might run into difficulties, particularly with respect to a uniform wage scale. At the second meeting, the association spokesman said that the association was in "general" agreement on the union's prerequisites to bargaining on a multiemployer unit basis, and the union thereupon submitted written contract proposals, which the association needed to study; so no actual bargaining took place then. At the third meeting, the question of recognition of the association and the problems needed first to be straightened out began to appear. For some time after that, the union had no meetings with the association except such as were arranged through the Federal Mediation and Conciliation Service at the request of the association. But even at these meetings, no bargaining took place for some time because the union refused to recognize the association as representing the employers. Although agreement was ultimately reached by the union in

⁶¹ *Nashua & Co.*, 150 NLRB No. 150.

the *A & P* case, the union was, the Board held, entitled to, and did, bargain about recognition as well as about substantive issues, and recognition apparently continued to be a subject bargained about up to the point of agreement on all issues. Meanwhile, the strike and lockout had taken place while the union was still persisting in its refusal to recognize the association on a multiemployer unit basis. Thus, the lockout was used in an attempt to compel the union to accept the multiemployer unit.

In the case at hand, both labor organizations approved of the idea of bargaining through employer associations. LSW was even eager to establish bargaining on a multiemployer unit basis. This general attitude alone, of course, even though expressed to Wyatt in advance, did not constitute acceptance of the particular multiemployer unit tendered by the Association, but it may be said to characterize some of the later conduct of the unions. Because the two unions expressed themselves in separate meetings, I shall consider the effect of their conduct separately.

Nelson commenced at the IWA meetings with the Association by showing no concern for the size or shape of the bargaining unit and showing no special concern over the terms of the Association's enabling agreement. He was concerned (1) that members of the Association could not withdraw during negotiations, (2) that excluded subjects would still be bargainable with individual companies, and (3) that the IWA would not have to bargain about the same matter on more than one level. He was satisfied on points (1) and (2) at the outset of the April 24 meeting. On point (3) he was not immediately convinced. Because U. S. Plywood had local openings on hours of labor, Nelson was concerned that there might be duplication of bargaining on more than one level. It is not clear whether or not Nelson, at the outset, had before him a specific statement of the amendments desired by U. S. Plywood and by a local union for local bargaining. In evidence is a chart which he had had prepared that he used at bargaining negotiations. This chart stated only in general terms the fact that one local's opening referred to Article VII (Hours of Labor) of the U. S. Plywood contract. Until Nelson had been able to

study these openings in detail, he would, of course, have been unable to assure himself that there was no duplication. There is no evidence to establish when he saw these local openings in greater detail, but by April 26 he gave evidence of being less apprehensive that there would be a conflict which could not be worked out in bargaining with the Association. On that day he agreed to set aside the question of U. S. Plywood openings, agreed to bargain about the employers' openings on hours of labor, and suggested that any conflict could be taken care of later if a conflict appeared as a result of the bargaining with the Association. He was apparently satisfied at this point that a conflict was not inevitable. In his report to IWA locals on the status of bargaining he indicated that the problem of the U. S. Plywood hours of labor openings would not pose any difficulty. If Nelson's setting aside of the U. S. Plywood hours of labor openings as a problem did not in itself indicate an intent to accept the multiemployer bargaining unit offered by association bargaining, what followed clearly did.

From April 26, 1963, on, IWA got down to the serious business of bargaining with the Association. Its proposals were made to the Association as such and it dealt with the Association's offers as joint offers. It discussed and argued differences and sought to induce a settlement satisfactory to it. Its indication of acceptance of the multiemployer unit as the agreed bargaining format after that was as clear as it was in the *Safeway* case.⁶² IWA continued to meet with the Association's representatives with no intimation that it was not recognizing the Association as a multi-employer agent for group bargaining, and with no request to bargain individually until well after the strike began and well after the time the charges were filed herein. All the evidence indicates that the strike, itself, was resorted to, not to induce separate company bargaining, but as a means of forcing a better settlement on wages. At the beginning of the strike the IWA and LSW did not even pretend that two of the members of the Association were struck to induce separate bargaining by them. They made no

⁶² *Safeway Stores, Incorporated*, 148 NLRB No. 76.

request for separate bargaining and their publicity clearly indicated that the strike against the two members of the Association was a selective strike designed to get industry-wide economic benefits. Hence, the lockout, used in defense of this economic strike, did not have as its purpose coercion of the unions to accept the multiemployer bargaining unit.

On July 9, 1963, Nelson, at the informal meeting with representatives of the Association, expressed approval of the Association as a method of bargaining. Not only had the IWA up to this time given the Association every reason to believe that it was bargaining for a joint settlement, but its communications with its own locals likewise spoke of bargaining with the Big Six or with the Association in terms that raised no doubt of the intent of IWA to bargain on a multiemployer basis.

Even after the filing of the charge, the IWA gave no genuine indication of any desire to bargain with individual companies or to bargain other than with the Association as an employer group. It was not until July 15, when Nelson handed Wyatt a prepared written statement saying, in effect, that, from the beginning, IWA had been bargaining with the Association only as a representative of individual companies and not on a multiemployer unit basis, that IWA even claimed that it had not accepted that unit as appropriate. Coming as late as it did, this statement must be construed to be an attempt to repair a broken bridge in an effort to bolster a legal case and, perhaps, to induce a quicker settlement, because even after serving that statement, the IWA did not withdraw from meeting with the Association's committee but treated its statement as a legal technicality which had to be used but which could then be disregarded so that the parties could continue, as before, with collective bargaining. Furthermore, even after this written statement had been served on the Association, IWA gave no indication to its locals or their members that it was seeking bargaining on an individual company basis but merely reported on the state of negotiations with the Association. On all the evidence, I conclude and find that IWA did accept the multiemployer bargaining unit by its words and conduct and that its later attempt to portray a different situation was ineffectual.

It is not claimed that IWA was privileged to withdraw from such unit after an impasse had been reached in bargaining. I assume that this argument was intentionally withheld. Such an argument, even if it had merit, which, absent consent of the Association, it presumably does not,⁴³ would have conflicted with the position taken by the General Counsel and the Charging Parties that the IWA and LSW had never recognized the Association on the basis of a multiemployer unit. Only by taking the position that recognition had never been accorded, could either IWA or LSW attempt to justify a strike of less than all members of the Association, without giving the Association a correlative right to resort to a defensive lockout under the *Buffalo Linen* doctrine.⁴⁴

In evaluating the contention of LSW that it never recognized the Association or agreed to a multiemployer bargaining unit, one cannot overlook the attitude of LSW toward association bargaining. It is not difficult to see that, in 1963, LSW felt that its very existence might depend on stemming the loss of its locals. From all the evidence, I deduce that the LSW felt a need to approach its problem from two directions, first, by eliminating any desire on the part of members to change representation—an objective which might be attained by getting a substantial wage increase for its members to bring their wage scale up to or above that of employees in other industries—and, second, by rendering it difficult or impossible for other unions to pirate LSW locals and gain recognition—a purpose that could be accomplished by having a larger bargaining unit which could not be nibbled off by unions seeking only a plantwide or companywide unit.

When Hartley and Johnston learned of the formation of the Association, the second objective appeared within reach. The first could be reached only through hard bargaining and, most probably, a strike. The probability of a strike was so strong that LSW began early in 1963 to get strike authorizations. LSW had heard that the Associa-

⁴³ *Ice Cream, Frozen Custard Employees, Local 717*, 145 NLRB 865.

⁴⁴ *Buffalo Linen Supply Company*, 109 NLRB 447, aff'd, sub nom., *N.L.R.B. v. Truck Drivers Local Union No. 449*, 352 U.S. 818.

tion might wish to use a defensive lockout as a counter-measure to any strike. If this were to be the case, to LSW, one of the drawbacks of association bargaining but one that might have to be tolerated in order to gain one of the principal objectives of the LSW.

Obviously, the Association would appeal to the LSW as a means for accomplishing its objectives only if the Association were so set up that an associationwide unit would be legally assured. As I see it, it was to this end that Johnston prepared his questions to be asked before LSW recognized the Association for group bargaining. The optimum situation for LSW would, of course, exist where the unit proposed by the Association coincided with the territorial coverage of the Western Council and, in an effort to get the best deal, LSW made a determined effort to produce such coincidence. However, when it realized that the Association would not change the composition of the unit on which it was formed, it also realized that the unit offered was more to its advantage than a number of small units. After all, when the omission of two California plants of U. S. Plywood had been settled to the satisfaction of LSW, the unit offered by bargaining with the Association was not geographically too far from the one sought by LSW. It was still good enough to appeal to LSW as a means to its end.

Johnston, however, was still concerned about the question of whether or not the protection of an associationwide unit would legally be attained when bargaining was confined to the few subjects before the parties—a 3-year contract and a wage raise asked by LSW, two changes in hours of labor, one on overtime, and one on grievance procedure asked by the Association. As I view the case, LSW, in insisting on being able to bargain on all subjects, was not objecting to bargaining with the Association. On the contrary, it was trying to bargain in such a way as to strengthen its claim to the protection of an associationwide unit. To do this, Johnston sought reassurance that the Association could bargain about all mandatory subjects of bargaining and sought to gain some kind of group agreement distinct from amendments to individual contracts. To get this re-

assurance, Johnston felt obliged to exceed LSW's bargaining authority from its locals—authority merely to bargain for a wage increase over 3 years. This, I am satisfied, explains Johnston's effort to establish a joint committee to study automation and classifications and to seek some form, no matter how skeletal, of a master contract.

From all the evidence, however, I conclude that the concessions sought by Johnston were not conditions precedent to LSW's acceptance of the group bargaining format. When it became certain that the Association would not include plants east of the Cascades, the LSW held a caucus. From what occurred after that caucus, it is deducible that the LSW committee decided to accept the unit tendered by the Association⁶⁶ but to attempt, through bargaining for items that would result in an association agreement rather than merely an association settlement, to solidify the bargaining unit for the firmer protection of LSW locals.

The breakdown in negotiations just prior to the strike resulted, not from any reluctance on the part of LSW to bargain with the Association in a multiemployer bargaining unit, but from its failure to induce a more attractive wage offer by the Association. At the time of the strike, LSW was accepting, as inevitable, the prospect of a lockout. It made no pretense at the time of the strike, any more than IWA had, that the strike was to induce separate bargaining. It is clear from the evidence that the strike was intended by LSW no less than IWA to be a selective strike designed to produce the least economic suffering by its members. Working members were encouraged to finance strikers. This financing could only be accomplished if a substantial portion of the LSW members continued to work. Hence, the limited scope of the strike.

Until after the filing of the charge, LSW made no pretense that it sought separate bargaining with individual members of the Association. And after the filing of its charge it did not request individual bargaining until June

⁶⁶ This is particularly evident from the letter distributed by Hartley following the caucus, from Hartley's remark about having got rid of the technicalities, and from the fact that the LSW began to outline its demands.

28, 1963. But even then it did not discourage association bargaining by refusing to bargain otherwise than with individual companies. Granted that the LSW sought to cooperate as much as possible with the Federal Mediator, nevertheless, a union actually sure of its position that it had never agreed to bargain on a multiemployer unit basis could have declined to bargain except on an individual basis, as did the union in the *A & P* case, *supra*. So long as the Association was willing to improve its offer, LSW, no less than IWA, was willing to continue to meet with the Association. I am impressed by the argument that on and after July 1, 1963, the LSW was dealing with the Association only as the designated representative of individual companies. LSW knew that the Association had been formed to bargain jointly, and it never pretended to believe, before July 1, 1963, that the Association was a bargaining representative for any company separately from the other members. The Association had never been designed to bargain as agent for individual employers, and LSW had no reason to believe that it had been. Even after having been informed by the Association that it was not the designated representative of separate companies for individual bargaining, and could only bargain as a group,⁶⁶ LSW continued to meet with the representatives of the Association in bargaining sessions. It is apparent, therefore, that the statements made at the July 1 and subsequent meetings that LSW was bargaining with the representative of separate employers were made for legal effect only and were made with no serious intent of disturbing the possibility of an agreement with the Association. I view the asserted legal position of LSW as an attempt, *ex post facto*, to discredit the Association in its claim to have used the lockout defensively for the purpose of maintaining its solidarity.

The General Counsel (presumably granting, for the sake of argument, that the Association was so organized as to have the right to use a lockout) contends that the lockout was used unnecessarily (and therefore not within the scope

⁶⁶ The refusal by the several members of the Association to bargain separately was not alleged in the complaint to be a refusal to bargain.

of the *Buffalo Linen* doctrine) and that this is demonstrated by the fact that the lockout was terminated on August 7, 1963, before the end of the strike. I have not seen any authority which holds that the use of a defensive lockout is illegal if there is any other pressure tactic to which members of an employers' association might legally resort in combatting a selective strike. Even if the Association might, at the outset of the lockout, have instead threatened unilateral institution of the Association's last offer, such threat at the time, might have been of little effect. Conditions in bargaining had changed by August 4. The Association had offered enough higher increases by that time to make the threat unilaterally to put such increases into effect more potent. I find that the termination of the lockout before the end of the strike does not prove that the Association resorted unnecessarily, or other than defensively, to the use of a lockout at the outset.

The entire picture presented by the evidence in this case is one of two colossi (the Association on one side, the two unions on the other) engaged in a great tug of war, with each using as much weight and force as was available but with each cognizant of the rules of the game and attempting to stay within them. On the entire evidence, I conclude and find that the Respondents did not make illegal use of a lockout but confined its use to that sanctioned by the Board in its decision in *Buffalo Linen Supply Company*, 109 NLRB 447, where the Board said:

... we think that the more reasonable inference is that, although not specifically announced by the Union, the strike against one employer necessarily carried with it an implicit threat of future strike against any or all of the other members of the Association. For, the Union's action represents a similar technique of exerting economic pressure to atomize the employer solidarity which is the fundamental aim of the multi-employer bargaining relationship. The calculated purpose of maintaining a strike against one employer and threatening to strike others in the employer group at future times is to cause successive and individual employer capitulation. Therefore, and in the absence of

any independent evidence of antiunion motivation, we find that the Respondents' action in shutting their plants until termination of the strike at Frontier was defensive and privileged in nature, rather than retaliatory and unlawful.

Upon the foregoing findings of fact and conclusions of law, I recommend that the complaint be dismissed in its entirety.

Dated:

JAMES R. HEMINGWAY,
Trial Examiner.

[Tr. 1] BEFORE THE NATIONAL LABOR RELATIONS BOARD
Nineteenth Region

Case No. 36-CA-1261

Case No. 19-CA-2652

WEYERHAEUSER COMPANY, CROWN ZELLERBACH CORPORATION,
RAYONIER INCORPORATED, INTERNATIONAL PAPER COMPANY,
AND ASSOCIATION

and

WESTERN STATES REGIONAL COUNCIL No. 3, INTERNATIONAL
WOODWORKERS OF AMERICA, AFL-CIO

and

WESTERN COUNCIL OF LUMBER AND SAWMILL WORKERS,
AFL-CIO.

[Tr. 94] Whereupon, FRED LOWBY WYATT was called as
a witness by and on behalf of the General Counsel and,
having been first duly sworn, was examined and testified
as follows:

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[Tr. 376] Direct-examination

Q. (By Mr. Prael) Mr. Wyatt, I think the record may
show you are presently employed by Weyerhaeuser Com-
pany, but would you state again what your present posi-
tion is with this company?

A. Vice-president of marketing, wood products division.

Q. And prior to taking that position as vice-president of
the marketing division of Weyerhaeuser Company, what
was your position?

A. Vice-president, assistant to the executive vice-president of the wood products division.

Q. How long have you held the position as vice-president of marketing?

A. Since January 1, 1964.

Q. And when did you first assume the position of vice-president and assistant to the executive vice-president?

A. Approximately June of 1962.

Q. Prior to that time what was your position with Weyerhaeuser Company?

A. Vice-president of personnel for Weyerhaeuser Company.

[Tr. 377] Q. When did you first become vice-president of personnel?

A. May of 1960.

Q. And prior to becoming vice-president of personnel of Weyerhaeuser Company in May 1960, what was your position with this company?

A. Director of personnel.

Q. When did you first become director of personnel?

A. November 15, 1957.

Q. And prior to that time what was your position?

A. I was general manager of manufacturing for the Gerber Products Company of Fremont, Michigan.

Q. How long did you occupy that position with Gerber Products Company?

A. I would guess, I believe it was about two years.

Q. Before that what was your occupation?

A. I was assistant to the vice-president for manufacturing and research of Gerber Products Company.

Q. And where were you?

A. I was located in Oakland, California, at that time; at the time I was general manager of manufacturing I was located at the general offices of Gerber at Fremont, Michigan.

Q. In your position with the Gerber Products Company, were you at all concerned with negotiation of collective bargaining agreements?

A. Yes, sir.

[Tr. 378] Q. And when did you first have experience in that regard?

A. For Gerber beginning immediately after World War II, in the fall of 1945, I came with Gerber as personnel manager at their Oakland, California, plant.

Q. Will you tell us what that experience was in general during that period.

A. In 1945, immediately after the war, my first activities were in connection with the creation of a personnel activity for the Gerber organization. I was concerned with the development of man power, hiring, recruiting, training, and was in charge of Gerber's relationship with their principal collective bargaining agent, which was the International Brotherhood of Teamsters.

Q. During that period were you connected in any way with any multi-employer bargaining with any union?

A. Yes, I was.

Q. Tell us what.

A. Gerber, among a number of other food processors in the Central California area, was a member of a multi-employer bargaining association.

Q. What was the name of that association?

A. That was and still is named the California Processors and Growers, Inc., bargaining for all member companies which consisted, to the best of my recollection, in the neighborhood of 35 or 40 companies, and some 70 plant locations.

[Tr. 379] Q. Generally in the California area?

A. Generally in the Central California area, yes, and Gerber was one of those companies.

Q. What were some of the other companies?

A. California Packing Corporation, Libby-McNeil-Libby, H. J. Heinz Company, Schuckel Company.

Q. That is sufficient.

Was Gerber Products Company a member of that multi-employer bargaining group throughout that period that you were in California holding the position you described from 1945—

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A. Yes.

Q. (By Mr. Prael) And what was your participation, if any, in that multi-employer bargaining?

A. At the outset, beginning in 1945, I was the Gerber Company's representative in its relationships with the California Processors and Growers, Inc. Somewhere in the neighborhood of 1947, I became a member of the negotiating committee of California Processors and Growers, Inc., which conducted the bargaining and at the end of the period before I went to the general offices in Fremont, Michigan, I was the president of California Processors and Growers, Inc.

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[Tr. 380] Q. (By Mr. Prael) Did you participate in any labor negotiations or were you connected with any labor negotiations while you were in the Fremont, Michigan, office of Gerber after 1955, as I understand you went out there in 1955?

A. Yes, I did.

Q. Then you joined Weyerhaeuser Company in 1957?

A. Yes.

Q. In connection with your work as director of personnel and later as vice-president of personnel, and the other positions you have described, have you become familiar with the history, generally, of collective bargaining in the lumber industry in the Northwest?

A. Yes.

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[Tr. 381] Q. (By Mr. Prael) In general, can you describe what unions represent, have over the years represented employees in that industry in the Pacific Northwest?

A. Primarily they have been the International Woodworkers of America and the Lumber and Sawmill Workers, a part of the United Brotherhood of Carpenters and Joiners.

Q. Do you know whether or not in past years these two unions have bargained with groups of employers or individual employers in this area in this particular industry in the Pacific Northwest?

A. I think both situations have been true historically.

Q. Can you tell us what you know about the history of such bargaining in the Pacific Northwest?

A. Historically, the picture has been one, to my knowledge, of any number of bargaining associations of various kinds which represented various and changing groups of individual employers, and always characterized by a number of independent employers who bargained individually.

The list of independents changed from year to year and bargaining to bargaining, as did the character and structure of the various associations. The common denominator of the various associations was probably the fact that they were never organized fully-bound basis. The result of bargaining through these associations was typically a recommendation both to their members and a recommendation, generally, by the union committees to their locals and memberships as opposed to being bound to a common result if that result was unsatisfactory to any member.

I think this has been the case in the industry to my recollection and to my knowledge right up until 1963.

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Mr. Byrholdt: Objection. I don't know what years we are talking about here.

Mr. Prael: I am going to try to pin it down.

Trial Examiner: He has already mentioned variations in prior years. Do you have anything specific?

Q. (By Mr. Prael) Can you give me the names of some of these associations?

A. Yes.

Q. I am trying to avoid leading. Actually, this is past history which everybody knows. Can you tell me was there an organization at one time called the Timber Operators Council, Inc.?

A. The Timber Operators Council, Inc., there was and is, I think, such an association.

Q. When was that first organized?

[Tr. 383] A. I believe it was organized in 1960.

Q. That is still in existence, is it?

A. Yes, it is.

Q. Is that made up of a group of employers in the timber industry in the Northwest?

A. Yes, it is.

Q. That was organized in 1960?

A. Yes.

Q. Prior to that time were there other associations of employers in the timber industry?

A. Yes.

Q. Can you name them?

A. Yes. At the time just prior to the organization of the Timber Operators, there was an organization known as the Forest Products Operators, the F.P.O., which was in existence for a short time. It was something of an umbrella organization which purported to be some kind of organization of organizations really, which continued to exist, and some of those which Forest Products Operators was formed from were the Lumbermens Industrial Relations Committee, the Willamette Valley Lumber Operators, the Oregon Coast Operators, the Plywood and Door Manufacturers Association, and it is my recollection that these organizations I just named continued as entities at least during the period of Forest Products Operators. But they did disband at the time of the organization of the Timber Operators [Tr. 384] Council, and during this entire period there were at least two other organizations which existed and to my knowledge still exists. One of them is the Pine Industrial Relations Council, the P.I.R.C., which represents some pine operators in Southeastern Oregon, Eastern Oregon, and Northern California, and the Timber Products Operators—I think that is the right name—in Spokane, headquarters in Spokane, which represents another group and those groups did not disband with the formation of Timber Operators Council in 1960, but have continued to operate as employer associations.

Q. Let's see if we can get this more chronological. You came with Weyerhaeuser in 1957?

A. Yes.

Q. And at that time that was some years before the formation of the Timber Operators Council?

A. Yes, sir.

Q. And also prior to the formation of the Forest Products Operators?

A. Yes, sir.

Q. What associations were in existence at that time when you came in 1957?

A. Chronologically, at that time bargaining was being conducted by the following associations that I recall, and by certain independents who did not belong to or participate in the bargaining of said associations, and these were Timber Products Operators, [Tr. 385] the Pine Industrial Relations Council, Lumbermen's Industrial Relations Committee, Plywood and Door Manufacturers Association, the Willamette Valley Lumber Operators, the Oregon Coast Operators, and I believe those were the major ones.

Now, in a given year there were several ways that an individual company might conduct its bargaining with either of these major forest products international unions. Some were entirely independent and conducted their bargaining as single, a single or multi-plant unit. You could belong to an association but not bargain as a member of such. You could not participate in their bargaining sessions but still be a member of the association. And thirdly, you could belong to the association and bargain with it as a member of its negotiating committee. If you did the latter it was always understood that when the bargaining was completed and a recommendation was arrived at, you were free to accept it or bargain separately to a different conclusion if that was your desire.

Q. In all of these associations the association bargained only to recommend contracts and then the members either adopted or not as they chose, is that correct?

A. Yes. During the years that these six or seven associations carried on negotiations.

Q. During this time did the membership of these associations remain the same or did it change from year to year, or what was [Tr. 386] the situation?

A. Oh, it changed each year, I would say, to some degree. There was probably less variation in the Timber Products Operators and the P.I.R.C., Pine Industrial, than the others.

Q. How far back did the Timber Products Operators go? Do you know how long that association existed or do you know how long any of these associations in existence at the time you came into this field in 1957 had been in existence? Do you know how long some of these associations had existed? Had they existed for a varying number of years or what was the situation?

A. I can't recall. I don't know of my knowledge the specific dates of the formation of any one of them. In reading and studying the history of my company I find that they did exist for varying periods of years before I came into the industry in 1957.

Q. Now, as I understand it, after you came into the industry here the Forest Products Operators was formed. That was in 1958, is that correct?

A. I think that was the year.

Q. And how was that formed and for what purpose? You described something about it being an association of associations.

A. Yes. It was my understanding that the various associations which were conducting bargaining had all participated in the Forest Products Operators formation as a sort of an umbrella representative for them in their bargaining. I was not a part [Tr. 387] of that formation nor did my company join it, so my knowledge as to the details of its organization is not very good.

Q. Was the Weyerhaeuser Company at any time a member of some of these associations or participate in bargaining with the unions through any of these associations?

A. Yes, it did.

Q. In which cases, did it vary from year to year or was it the same?

A. Yes, there was a variation from year to year. Shortly prior to my coming with Weyerhaeuser it had been a member of the L.I.R.C., the Lumbermens Industrial Relations Committee, but was not a member at the time I came with the company. At that time also, the Weyerhaeuser Company was a member of the Pine Industrial Relations Committee and did not bargain with or through the P.I.R.C.,

but was a member thereof and was for a period of time since my coming with Weyerhaeuser. It is not now a member.

Q. Were some of the companies, other companies, respondents in this action, for instance, members of one or more of these associations at various times?

A. Yes.

Q. Did the associations that you have named bargain for these recommended settlements with both the IWA and the LSW separately or together, or what is the history in that respect? Do they each deal with both unions?

[Tr. 388] A. The associations, you mean?

Q. The various associations, yes, did they each deal with LSW and each deal with IWA, or did some associations deal with one union and some with the other. What was the situation there.

A. In general, I think, most, if not all of the associations dealt with both unions.

Q. In separate negotiations as far as you know?

A. Yes, as far as I know.

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Q. (By Mr. Prael) Can you name any companies where that existed? Do you know of any such companies?

A. I don't know for a certainty. I have a strong feeling that there are some companies—

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[Tr. 389] Q. (By Mr. Prael) We will start with after 1957.

A. Yes.

Q. Do you know whether or not there were strikes before 1957?

A. Yes.

Q. Can you recall specific strikes? Were there strikes every year or what was the situation?

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[Tr. 390] Q. (By Mr. Prael) Was that generally the situation after 1957 as well as before?

A. Yes.

Q. As I understand it, Forest Products Operators was formed in 1958 and another association, Timber Operators Council, was formed in 1960, is that approximately right?

A. Yes.

Q. Did the Timber Operators Council replace the Forest Products Operators or what was the situation is that regard?

A. Yes, it did and it also replaced certain of the other associations that I mentioned earlier. For example, the Lumbermens Industrial Relations Council, the Plywood and Door Manufacturers Association, the Willamette Valley Lumber Operators, [Tr. 391] and the Oregon Coast Operators.

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Q. (By Mr. Prael) Did you participate in any way in the Timber Operators, the formation of the Timber Operators Council?

A. No, sir.

Q. Did Weyerhaeuser become a member of that association?

A. No, sir.

Q. It conducted, during that period at least, its negotiations with both of these unions independently?

A. Yes.

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[Tr. 392] Q. (By Mr. Prael) I will restate it. As I understand it, in 1960 the Timber Operators Council was formed and conducted some kind of negotiations, I take it, in that year for its members and some of the earlier associations had been absorbed or absolved. As I understand your answer Weyerhaeuser did not, in 1960, become a member of Timber Operators Council.

A. Correct.

Q. During 1960, then, did Weyerhaeuser conduct its negotiations with LSW and IWA independently or through some other association than Timber Operators Council?

A. Independently.

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Q. (By Mr. Prael) Do you know whether or not Crown Zellerbach Corporation bargained as a member of the Timber Operators Council in 1960?

A. No, I don't specifically.

Q. Do you?

A. As to whether they bargain in 1960?

[Tr. 393] Q. Do you know specifically how Rayonier Corporation bargained in 1960?

A. No.

Q. Or International Paper?

A. No.

Q. Was there bargaining or do you know, between the Timber Operators Council and the LSW or the IWA in 1961 in contract openings, generally, or do you know?

A. Yes, there was.

Q. There was. And at that time do you know whether Weyerhaeuser, Crown Zellerbach, International Paper, or Rayonier were represented by the Council in those negotiations?

A. I know that some of them were members of the Timber Operators Council. I do not recall whether or not they bargained as a member of those organizations or whether they did not.

Q. In 1962 do you know whether any of those companies was a member of Timber Operators Council?

A. Yes, some of them were members.

Q. Do you know which ones?

A. Crown Zellerbach was a member, International Paper was a member, and Rayonier was a member, I believe.

Q. Did you participate at all in the formation of what is now known as the Association, one of the respondents in this case?

A. Yes.

[Tr. 394] Q. When did you first become involved or interested in such formation of such an association?

A. In the spring and early summer of 1962. Well, I became interested in it beginning shortly after the conclusion of bargaining discussions in 1961.

Q. I see. And what—did you undertake any steps at that time in 1962 or at the end of 1961?

A. In the spring and early summer of 1962 I began to, yes.

Q. What were the factors that led to these steps that you took?

A. The factors that led to it?

Q. Yes.

A. The factors were my very deep personal concern that it was going to be in the interests of the unions, the employees of the companies, and the companies, to find a better formation for the conduct of collective bargaining in the lumber industry and I, from previous experience in multi-employer bargaining, had developed a conviction since coming here in 1957 that multi-employer bargaining on a fully-bound basis to a common result did fit the circumstances here and would be a substantial step forward for both employees and employers. These were the factors I think that led to my first efforts in this regard.

Q. Well, then, what did you do first when you reached that conclusion?

A. I had some informal, very informal discussions with other [Tr. 395] industrial relations, labor relations and management personnel of other companies in the industry.

Q. Had you had any other experiences since coming to Weyerhaeuser with multi-employer bargaining in connection with any other part of the Weyerhaeuser operations?

A. Yes.

Q. What were those?

A. Negotiations for Weyerhaeuser's pulp operations, pulp manufacturing operations with the Pacific Coast Association of Pulp and Paper Manufacturers, a multi-employer bargaining association that represents the Pacific Coast pulp and paper manufacturers with the Pulp, Sulfide and Papermill Workers and United Papermakers and Paperworkers of America.

Q. Since you came to Weyerhaeuser have you, in connection with the positions you have held and described in the record already, had direct participation in those negotiations through that association?

A. Yes.

Q. And that union, is that right?

A. Both unions, there are two unions, one association.

Q. To be more specific, when did you first have discussions regarding the possibility of forming such an association as was finally formed?

A. May and June and July of 1962.

Q. Who did you discuss the plan with, as nearly as you can [Tr. 396] recall?

A. Among others, I discussed it with Mr. Mike Roberts of St. Regis Company, Mr. Ed McMahon of St. Regis, Mr. H. J. Greeley of International Paper Company, Mr. Ralph Kittle of International Paper Company, Mr. Fred Harvey of the Scott Paper Company, Mr. Mel Munson of Simpson, some others in Weyerhaeuser Company, and those would have included Mr. George Weyerhaeuser, Mr. Joe Nolan, and I believe I had some discussion about that time with Mr. Herb Gaustad of Kimberly-Clark Corporation.

Q. Were these discussions group discussions or individual discussions that took place from time to time over a period of months?

A. Individual over a period of time, basically. There may have been more than one of these people at a given discussion, but generally they were quite informal and generally individually.

Q. At the present time was a meeting called to take up this specific subject or was there a meeting called at which this subject was taken up?

A. During this period of time?

Q. Yes, the middle of 1962.

A. Well, there were no meetings called at that time, speaking of late spring and early summer, that I recall. I don't think we began any real meetings until somewhat later in the year.

Q. And what was the nature of these discussions you had with [Tr. 397] these gentlemen?

A. In general I outlined my concern as to the ability of the present bargaining format to come to grips with the real problems of the industry as I saw them, as my company saw them, as of the day and for the future.

Q. What were those problems?

A. I felt that the competitive situation of most of our products was becoming more and more difficult to compete advantageously, costs of labor had been increasing, costs of other things had been increasing, prices in the market place had not matched there. This was going to be needed to improve the productivity of our operations. If we did that it was going to have an impact upon employees and was going to require broad discussions with the international unions and agreements with the international unions with representatives of employees as to how these problems could be solved and how we could make the adjustments and agreements and come to grips with what we all saw and this is what I was telling these other people, that this is the way I saw it and the format that was needed was a substantial group of major employers who had reasonably common interests in the long-range future of the industry as opposed to the short-range future or the immediate. And such a group was going to have to be formed. They were going to have to bargain together. They were going to have to be in the same room and be bound to the same outcome because as long as the bargaining [Tr. 398] was conducted in a lot of different places by a lot of different people, there was a tendency not only of the unions but the employers to be concerned about coming to grips with these problems if the other segments were not.

There was a real need to know that if a step forward could be taken as a result of the given discussion, everybody was going to have to know that all these others were going to be similarly affected or were going to make the same kind of provision if we could really move forward. This was the case or the set of thoughts that I was outlining to these other industry representatives to see whether or not they felt that I was discussing reality and possibilities. If A, was it desirable; and B, if it was possible.

Q. Were these problems that you mentioned in any way involved in automation or mechanization?

A. Yes, they were. This is what I meant when I said to improve productivity could result and would likely result in mechanical changes, changes of production equip-

ment and so on. This involved people and people involved their representatives and these problems had to be approached on that basis in my judgment.

Q. Was there a meeting called of anyone to attempt to follow up the idea with the actual formation of an association? I take it there wasn't.

A. Yes, we called some meetings.

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[Tr. 399] Q. (By Mr. Prael) When was the first meeting called?

A. It would have been in the late summer of 1962.

Q. Where was it held?

A. As to the first one, I don't really believe I know.

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Q. (By Mr. Prael) Were you present at the meeting?

A. Yes.

Q. And do you recall where it was?

A. No, not definitely. I believe it was in Seattle and I think it was at the Washington Athletic Club.

Q. Who called the meeting?

A. In a discussion with at least Mr. Roberts and perhaps Mr. Boddy of Crown Zellerbach, we, the two or three of us, made up a list of what we thought might be interested companies and invited them to join us for an exploratory discussion.

Q. And was there more than one meeting before the Association was actually formed?

[Tr. 400] A. Yes.

Q. And coming back to the first meeting, you believe that was in Seattle at the Washington Athletic Club?

A. I believe it was.

Q. Do you recall who was present at that meeting besides yourself?

A. Well, I was there, I am sure of that, Mr. Roberts was there from St. Regis, Mr. Boddy was there from Crown Zellerbach, Mr. Greeley of International Paper was present.

Q. Who?

A. Mr. Greeley of International Paper.

(Continuing) Mr. Fred Harvey of Scott Paper was there, Mr. Mel Munson, Mr. Scott Witt, and/or Mr. Hoffman of Weyerhaeuser was present. I am not sure of which or whether they were both there. There were others present, sir.

Q. Was there ever a meeting called at which your superior, Mr. Boddy's superiors, were called to a meeting to discuss this?

A. Yes.

Q. When was that?

A. This was in late September of 1962, I believe.

Q. Where was that meeting?

A. That was held in the Washington Athletic Club of Seattle.

Q. Do you recall who was present at that meeting?

A. I can recall some of them who were present. Mr. George Weyerhaeuser of Weyerhaeuser Company was present, Mr. Henry [Tr. 401] Bacon of Simpson Timber Company was present, Mr. Otis Hallin of Crown Zellerbach, Mr. Marshall Leeper of U. S. Plywood Company, Mr. Ralph Kittle and Mr. Harry Kelsey of International Paper, Mr. Roy Davis and Mr. Fred Harvey of Scott Paper Company, Mr. Len Forrest of Rayonier.

Q. In general, were these men you mentioned the superiors of the respective organizations, companies, of the earlier group you referred to?

A. Yes, they were.

Q. What was Mr. George Weyerhaeuser's position with Weyerhaeuser?

A. Executive vice-president.

Q. And at that time, as I recall it, you held the position of vice-president and his assistant?

A. Yes, that is correct.

Q. Mr. Otis Hallin of Crown Zellerbach was one of the men whom Mr. Boddy worked for, and so forth?

A. Yes, Mr. Bacon was the one to whom Mr. Munson reported. Mr. Kelsey and Mr. Kittle were individuals to whom Mr. Greeley reported, and so on.

Q. At these meetings were any agreements reached or programs worked out and decided upon as to procedure, or what did happen, in general, at these meetings?

A. I was asked to outline for this larger group, including representatives of the principals, the thoughts I had been ex- [Tr. 402] pressing from time to time over a period of months to various labor relations and industrial relations personnel of those companies as to what it was I was discussing, why I was discussing it, why I thought it was desirable, and why I thought it might be done, et cetera, as both my personal opinion and as a summary of opinion of those with whom I had been in discussions and with whom we had a meeting or two prior to this meeting.

Our purpose was to outline this in as much detail as possible to these principles and attempt to determine whether or not, if we were to continue these discussions and efforts and were to arrive at a desirable format, would these companies be disposed to support it and join it and go along with it understanding that it would be a fully-bound association.

We wanted to outline and then to get their advice and counsel as to whether their companies could or would support it if it was put together and what their suggestions were as to other things they would need to know in order to determine their cooperation; what efforts they would want us to make and tell us if we put it together and no one was going to be interested in it we could save quite a bit of efforts.

Q. What was the conclusion of the meeting? Were steps agreed upon or comments made, or what was the result of the meeting?

A. In general the reaction of the principles was favorable in that they felt that these problems existed. They questioned [Tr. 403] whether the then existing bargaining format could come to grips with them.

Q. By their present position and format you are referring to the various associations?

A. And independents and recommendations as opposed to binding settlements, and so on. They encouraged us to proceed, to continue the investigations and to continue our studies and to bring to them further and more specific recommendations, which were at that time negligent.

Q. You referred to forming an association in which the member companies would be fully bound. What do you mean by that, bound to what?

A. To a common result of bargaining.

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Q. (By Mr. Prael) Would you explain what you mean by what you said, bound by a common result of bargaining?

A. Yes. The companies bargain together and presumably reach a settlement with the unions with whom they are bargaining and when such a settlement is reached, all companies, members of [Tr. 404] the association, are bound to abide by that result.

Q. After this meeting which you have just described, including Mr. George Weyerhaeuser and top officials of the other companies you have mentioned, were any further steps taken toward the formation of an association? I understood from your testimony that they indicated interest and issued instructions to pursue the problem.

A. Yes.

Q. And what was done?

A. Well, among the suggestions made by this group of principals as to things they felt needed further exploring were:

1. The various labor contracts as they were currently in effect by all of these member companies with these unions on a very minute comparison basis as to what a specific clause or a specific bit of subject matter, how it was handled in one contract versus the other versus the other versus the other, to determine how complex and how difficult the process might be to physically bargain, to carry out the technicalities of bargaining in that kind of group. They suggested that a survey of that kind should be made.

Q. Was a survey like that conducted?

A. Yes. We appointed some individuals from the group who were volunteered by their respective companies to undertake such.

2. There was a feeling that a careful review should be [Tr. 405] made of the applicable law and findings and agreements made by other associations of this kind as to how this could be done and how, what mechanically would need

to be done and what the pros and cons were of various approaches to this bargaining problem, what were the good things about one approach and the bad things about another approach, and they felt these should all be carefully investigated and referred back to them for their consideration.

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[Tr. 406] Q. (By Mr. Prael) In answer to the last question you stated that this group of men, I take it you referred to them as the principals, had asked that certain investigations be conducted and reported back to them, is that to the group that was assembled then at the end of September that you are talking about?

A. Yes, presumably to the others in the Company, at least in order to make any further progress they felt they needed us to study these points more carefully, more definitively and make the report of that effort known.

Q. How was that done?

A. A committee or subcommittee or group, at least, of the labor and industrial relations people were assigned the task by that.

Q. Who was on this committee or in this group?

A. Well, the nucleus of the committee would have been Mr. Roberts of St. Regis, Mr. Hoffman of Weyerhaeuser, Mr. E. M. Boddy of Crown Zellerbach and Mr. H. J. Greeley of International Paper. But on that committee, at various times in its discussions and meetings it is my understanding that various other people helped them or made contributions or suggestions as they went about their work.

Q. Who instructed this group as to what to do?

A. I would say the meeting of September 28 resulted in a good part of their instructions. I think I volunteered some sugges- [Tr. 407] tions, I think others did, individuals, as to what things they might investigate that would be helpful to us in moving forward if that should be the ultimate decision.

Q. Going back, I may have asked you this question, to your knowledge were the legal aspects of formation of such an association investigated?

A. Yes, to my knowledge they were.

Q. Was there a study of the various contracts that already existed between the participating companies and the various unions?

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A. Yes.

Q. (By Mr. Prael) Referring to R-233, which has been identified in the record during the previous session, I will show this to the witness. I ask you if you are familiar with that.

A. Yes.

Q. What is that, is that part of that study?

A. Yes. This was a suggestion, I mean, a sample form that was distributed by one member of this subcommittee, Mr. Greeley of International Paper, in which he used his own company as a sample [Tr. 408] as to how the information relative to various contractual provisions might be summarized and compared.

Q. You are referring to a document which has been marked Respondents' Exhibit No. 233. It appears to be a letter addressed to Mr. Boddy and it is signed by H. J. Greeley, dated November 1, 1962. There is one sheet which appears to be a blank form of letter and then there are 13 pages which seem to be some sort of a form having columns and on one side "Subject" and on the other side "Provisions" and at the top there is designations of unions and number of employees and so forth. These are referring to the contract provisions, I take it, and a comparison of the contracts, various contracts of Mr. Greeley's company?

A. Yes, it is a breakdown. It appears to be all International Paper. It is a breakdown of the contractual provisions under certain headings such as call time, check off, grievance committees and so on.

Q. Were similar studies made by other companies in the group?

A. Yes, I believe there were.

Q. Incidentally, at that time, you mentioned in addition to representatives of the respondent corporations other than the Association, that is, representatives of Weyerhaeuser, International Paper, Rayonier and Crown Zeller-

bach and representatives of U. S. Plywood and St. Regis, you mentioned representatives and officials of two other companies, Scott Paper Company, is it, [Tr. 409] and Simpson Lumber Company?

A. Yes, Simpson Timber Company.

Q. And their officials and representatives were participating in this group at that time, is that right?

A. Yes.

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Q. (By Mr. Prael) Mr. Wyatt, did you at any time prior to the end of 1962 ever discuss the possible formation of a multi-employer group with the head of either the LSW or the IWA?

A. Well, on a most informal basis I talked to a representative.

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Q. (By Mr. Prael) I take it the answer first, is yes?

A. Well, I was going to, for purposes of clarity, you said the head of the IWA or the LSW and I am not sure, that could be more than one answer.

Q. Well, did you discuss it with a representative, I am sorry.

A. Yes.

[Tr. 410] Q. Of which union?

A. International Woodworkers of America.

Q. And what is the name?

A. Of the individual?

Q. Yes.

A. I discussed this in a conversation with Mr. Harvey Nelson.

Q. Do you know his position with the IWA?

A. I think he is the president of the region, Region 3, I think, I am not certain. He is president of the Region 3 of the IWA.

Q. And when did this conversation take place?

A. In Portland on or about the 27th of December, 1962.

Q. Who was present?

A. Mr. Witt and myself and Mr. Nelson.

Q. And who is Mr. Witt? What is his first name?

A. Scott.

Q. Scott Witt of Weyerhaeuser Company?

A. Weyerhaeuser Company.

Q. Will you tell us what the conversation was with Mr. Nelson.

A. Well, first of all the meeting wasn't a meeting. The discussion with Mr. Nelson was for entirely a different and unrelated purpose. We were not meeting to discuss the association nor did we, in fact, have one at the time. In the course of discussion a great many subjects as we have been want to do from time to time when there were matters of mutual interest we ranged [Tr. 411] over a number of problems that he felt we had and some that I thought we had and in the course of it, of that discussion on a wide variety of subjects involving Weyerhaeuser in particular and which drifted into some industry problems in general I said, I made a comment, something to the effect that I felt that we would never really solve some of these problems adequately until we had a different bargain format in some kind of employer group that was fully bound to a common bargaining result, that I felt that was a must for us to come to. That was all. It was a statement by me at that time.

Q. Did Mr. Nelson say anything in reply to the statement?

A. First, I don't recall what he said. It is my recollection that he did not disagree that this might be the right answer at some appropriate time.

Q. Have you related to us in substance at least all that occurred at this meeting with Mr. Nelson in the end of December relating to this subject?

A. Yes, all that related to the subject; the meeting, I have already said, was for a very different purpose and discussed a number of Weyerhaeuser-IWA problems and one thing and another and it was not an unusual thing for us to discuss broad problems from time to time and at this meeting I recall injecting my feeling about the need for a different format.

Q. Were there any other meetings of the principals of these companies that you referred to earlier?

[Tr. 412] A. By principals you are referring to those superiors to the working crew?

Q. Yes: working committee.

A. I don't recall that there was ever another meeting of them during this whole period in which all of them were represented. Certain of those who were present at the September 1962 meeting in Seattle were present at a number of additional meetings and, in fact, were present at meetings right through the history of this matter. Certain of them, but not all of them. The ones who continued to be present at other exploratory and study meetings and organizational meetings, and so on, were Mr. Hallin of Crown Zellerbach, who was also present at the September 28 meeting, Mr. Kelsey and Mr. Kittle of International Paper were present at various times at additional meetings, Mr. Leeper of U. S. Plywood was, Mr. Forrest of Rayonier was, certain of the others were not at subsequent meetings.

Q. These meetings, did the sub-committee or working committee make reports of what they were doing?

A. Yes, I think at various times at meetings between September and December, the end of December, various members of the sub-committee would report to the group and discuss a problem that they felt they needed guidance on or they needed assistance or they had reached a conclusion and they wanted to try that conclusion out on the group and guide their own progress.

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[Tr. 413] Q. (By Mr. Prael) Mr. Wyatt, are you familiar with those documents which I just handed you, or any of them?

A. Yes, I have seen them.

Q. When did you first see them?

A. Well, I—

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Q. (By Mr. Prael) I am referring to Respondents' 241, 242, 243, and 244.

A. With respect to R-241, which is a letter from Mr. Roberts to Mr. Boddy and Mr. Greeley and Mr. Hoffman, I did not receive [Tr. 414] a copy but it was shown to me probably within a week after its date, which is January 22, sometime in late January I am sure I saw these, but I am not sure of the exact date. It appears that 242 and 243 were attached.

Q. Are you familiar, independently, with that fact, are you familiar with 242 and 243?

A. Yes.

Q. Do you recall seeing them?

A. Yes.

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[Tr. 417] Q. (By Mr. Prael) Let me ask you two more questions. Looking at Respondents' Exhibit No. 241, do you recognize the signature there, "Mike", do you recognize that writing?

A. Yes.

Q. Whose signature is it?

A. Michael A. Roberts.

Q. Who is Michael A. Roberts?

A. Northwest Industrial Relations Director for St. Regis Paper Company.

Q. And do you recognize the handwriting on R-242?

A. No, I could not be certain.

Q. Regarding R-243, which is a document headed, "Draft-Cover Letter, Confidential Sub-Committee Report", can you tell me approximately when you first saw that again?

A. Within a seven-day period after its date, which is 1-22-63.

Q. Was that report discussed at any meeting?

A. Yes. A great many, or a number of drafts of this kind, including this one, were discussed at meetings.

Q. Do you recall discussing that particular draft?

A. Yes. It is my recollection that this was really the first draft, as such, that was turned out, and—

Q. (Interrupting) Draft of what?

[Tr. 418] A. Of a potential association agreement.

Q. You are referring to R-243?

A. Yes.

Q. You don't recall any earlier draft of an association agreement than R-243, is that correct?

A. I don't; no.

Q. Do you recall whether there were other drafts of an association agreement other than R-243?

A. Yes, there were.

Q. R-242 refers to a meeting arranged for Tuesday, February 21, 1963. Do you know whether such a meeting was held at about that time?

A. Yes, I believe there was one held on or about that time.

Q. Respondents' Exhibit 242 is addressed to principals concerned. Do you know who that refers to?

A. I think it refers to representatives of each of the potential association members who were then discussing this.

Q. Who were they?

A. Those potential members at that time?

Q. Yes.

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[Tr. 419] Q. (By Mr. Prael) Who were the principals concerned at that time?

A. At that time Mr. Otis Hallin of Crown Zellerbach, Mr. Harvey Kelsey of International Paper, Mr. Len Forrest of Rayonier, Mr. Fred Harvey for Scott Paper, Mr. Marshall Leeper for U. S. Plywood, myself for Weyerhaeuser. I am not clear about Simpson.

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Q. (By Mr. Prael) You were yourself, then, the official of Weyerhaeuser, one of the principals concerned to whom this was addressed, R-242, is that correct?

A. Yes.

Q. The exhibit says, "Sub-Committee respectfully submits herewith, a report covering assignments given on December 14, 1962." Can you state what that report was?

A. This report?

Q. Yes; that is referred to in this letter, R-242.

A. Well, it was this confidential sub-committee report which contained the draft for collective bargaining.

[Tr. 420] Q. And you are referring to R-243?

A. I am.

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[Tr. 421] Q. (By Mr. Prael) Mr. Wyatt, did you, after receiving Respondents' 243, discuss it with anyone associated with the people you have described as the principals concerned?

A. I would say that I did.

Q. Approximately when did you discuss this?

A. Probably on several occasions between the end of January 1963, to the latter part of February, perhaps.

Q. Now, this draft report says that at a meeting held December 14, 1962, a sub-committee composed of Mr. Boddy, Mr. Greeley, Mr. Hoffman, and Mr. Roberts, was requested to prepare a draft of an agreement which would express the intentions of the concerned companies regarding the formation of a group for the purpose of bargaining collectively, especially with the LSW and IWA Unions. Do you know whether that request was made to that sub-committee on December 14?

A. Yes.

Q. Also attached to this, in addition to a draft form of agreement, are certain lists called Exhibit A. Will you tell [Tr. 422] us what Exhibit A is?

A. Those are the specific operations and a list of the specific operations of each potential member company and their local union number at each operation.

Q. There is a list of places which appears under that, Crown Zellerbach in one column and on the right a list of unions. Are those lists the places of operation of the Crown Zellerbach Corporation, do you know?

A. Yes, these are the locations, the work locations, the operations of Crown Zellerbach, that up to this point and time they would consider inclusions.

Q. And on the right in the second column is what?

A. The number of the local union representing the employees at the opposite location.

Q. And after Crown Zellerbach, what other company is referred to there?

A. International Paper Company, listing some nine operations and opposite the names are the locations of each operation and a local union number which represents the number of the local union which represents the employees at that location.

Q. And what other companies?

A. Rayonier, Inc., has three; Simpson Timber Company.

Q. Simpson Timber Company at that time was a principal concerned with the formation of an association, is that correct?

A. It appears so, yes; yes, they were.

[fol. 423] Q. Did Simpson Timber Company eventually come into the Association that was finally formed?

A. No.

Q. But at that time they were represented in the group interested?

A. Yes.

Q. I also notice that Scott Paper Company appears. They are not and did not become a member of Respondent Association; why are they listed in this exhibit?

A. Because at the time that this exhibit was prepared Scott Paper was a part of the group considering this Association and considered themselves potential members.

Q. And then also, of course, St. Regis Paper Company, U. S. Plywood Corporation, and your own company, Weyerhaeuser Company?

A. Yes.

Q. Referring to Weyerhaeuser Company, the designations under that are what? That is on the last page, Page 3 of the Exhibit A attached to the draft agreement.

A. It lists each of our operations in Oregon and Washington and California which we would propose to bring into the Association agreement, to bring under the terms of the Association agreement. It includes all of our saw-mills, woods, plywood plants in Oregon, Washington, and

one in Northern California. It lists the local unions that represent our employees and their [Tr.424] number at each of those locations.

Q. Does Weyerhaeuser Company have other timber operations in other areas?

A. Yes.

Q. Outside of Oregon, Washington, and Northern California?

A. Yes.

Q. Whereabouts?

A. We have them in Mississippi and Alabama, in North Carolina, and in Central Canada.

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[Tr.428] Q. (By Mr. Prael) The last question was, I asked the witness, I believe, if Weyerhaeuser Company had other operations than those listed on Page 3 of the Exhibit A attached to the Exhibit 243. He has answered yes.

Why are those not listed on Page 3, if you know?

[Tr.429] A. We did not intend to include them in the Pacific Northwest bargaining through this association.

Q. Are those other operations located at points outside the Pacific Northwest?

A. Yes.

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Q. (By Mr. Prael) Did any of the companies shown in Exhibit A attached to the draft agreement which is part of the confidential report of January 22, 1963, which is marked for identification as Respondents' Exhibit 243, did any of those companies ever sign an association agreement?

A. Between April 15 and April 22, 1963, yes, they did.

Q. Can you tell me which of the companies named in Exhibit A attached to the draft agreement which is part of the confidential report for identification, R-243, signed such agreement in the middle of April?

A. Yes.

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[Tr. 430] Q. (By Mr. Prael) And each of those companies you just mentioned signed such agreement in the middle of April?

A. Yes.

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[Tr. 438] Q. (By Mr. Prael) Mr. Wyatt, I will hand you what has been identified as a copy of a letter dated February 4, 1963. It has been identified as Respondents' Exhibit 246, and attached to that is a document marked "Draft", which bears no date but is marked Respondents' Exhibit 247. I will ask you to look at that and see if you can recall having seen that or a similar letter addressed to you about that date.

A. Yes.

Q. When did you see—this particular letter, you will notice, is addressed to Mr. Hallin in San Francisco. Did you see a similar letter at any time?

[Tr. 439] A. Yes; I recall receiving a similar letter.

Q. When?

A. On or about the time that this would have been received by Mr. Hallin, a similar date.

Q. What date?

A. Well, this would be February 4, I guess. I can't testify to this being precisely the same date, but it was at the same point in time.

Q. In February of 1963?

A. Yes.

Q. Would you look also at the attachment marked R-247 and I will ask you if that accompanied the copy of the letter which you received, if you can recall.

A. There was a copy of a draft attached to the letter that I received, yes.

Q. I notice this letter is signed M. A. Roberts, Subcommittee Chairman. What sub-committee was Mr. Roberts chairman of?

A. This would have been the sub-committee formed by the Association and assigned certain functions both in late September of '62 and additional directions in December of '62.

Q. You say formed by the Association, are you referring to your previous testimony regarding certain principals interested in forming an association?

A. Yes.

Q. At that time, I believe, there were some eight in number?

[Tr. 440] A. Yes.

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Q. (By Mr. Prael) It is correct, is it not, that it shows a copy of it went to Mr. E. M. Boddy at the bottom?

A. Yes.

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[Tr. 441] Q. (By Mr. Prael) Mr. Wyatt, the draft agreement which is attached to R-246 and is designated as R-247, does it have any relation to the draft which is attached and part of R-243?

A. Well, as to its relationship, I believe that R-247 is a later draft of the same subject matter as embodied in 243. I am not sure it is later I, think it is later. I would have to compare the two to be sure.

Q. Can you tell from looking at them which is the later?

A. Yes. Well, I am not sure I could rapidly put my finger on it, but I believe the one set forth as 247 is the later draft. I am not certain without checking it.

Q. The attachment Exhibit A to the draft, which is part of 243, you have already testified to, lists the certain corporations that were interested in forming this association with their plants and the unions which represented employees in those plants?

[Tr. 442] A. Yes.

Q. Is there a similar attachment to the later draft, which is R-247?

A. Yes.

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Q. (By Mr. Prael) These two particular drafts were not signed, is that right?

A. They were not signed.

Q. Now, at or about the time that this document bears, February, referring to the document marked R-246 and R-247, were meetings held of these representatives of this group which was interested in forming an association which you testified to this morning?

A. Yes, meetings were held.

Q. Can you tell us approximately when those meetings were held during the month of February?

A. It is my recollection that there was one early in February [Tr. 443] and one around the 21st or 22nd, somewhere in the latter part of February; at least those two.

Q. Is early in February the best you can fix the date of that meeting?

A. Yes, it is.

Q. Would you tell us where the meeting was held, if you can recall?

A. Well, they were both held in Seattle. I think one was at the Olympic Hotel and one was at the Washington Athletic Club, that would be my recollection.

Q. At the first meeting in February, do you recall who was present, what individuals?

A. This would have included myself, Mr. Hoffman, and Mr. Witt, both of Weyerhaeuser Company, Mr. Kelsey and Mr. Greeley of International Paper, Mr. Lewis and Mr. Forrest of Rayonier, Mr. Roberts and possibly Mr. Haselton or Mr. McMahon of St. Regis, Mr. Boddy and Mr. Hallin and possibly Mr. Richen of Crown Zellerbach, Mr. Harvey of Scott Paper, Mr. Munson of Simpson Timber Company.

Q. You judged this morning about a conversation you had near the end of December with Mr. Harvey Nelson. Had you, up to this time, had any further conversations with Mr. Nelson about the subject of the possible association or employer group?

A. Up to the early meeting in February?

Q. Yes.

[Tr. 444] A. No.

Q. Did you have such a meeting with Mr. Nelson after that?

A. Yes.

Q. How did that come about?

A. At the early February or late January meeting of the interested group, there were persons expressing opinions and they were agreed with to the effect that an association of that kind contemplated could not really operate or be effective or even conduct bargaining unless there was an agreement on the part of the bargaining agents involved, and as a result of that discussion and before additional effort was carried out or additional work was done, I was asked by that group to contact the key people in the two major unions and discuss it with them in a general way to determine their attitude as to the desirability before we proceeded any further.

Q. Did you carry out that request or those instructions?

A. Yes, I did.

Q. Did you meet with Mr. Nelson?

A. Yes, I did.

Q. And can you fix the date of that meeting?

A. I believe it was February 15.

Q. Where did the meeting occur?

A. At the Sheraton Hotel in Portland, Oregon.

Q. And would you tell us who was present other than yourself and Mr. Nelson?

[Tr. 445] A. I don't believe anyone else was present.

Q. Would you relate to us the conversation as it pertains to this subject?

A. Yes. I explained to Mr. Nelson the general thinking that had been going on in my mind and the minds of others, the thoughts we had relevant to the desirability of forming this kind of association, some of the problems that our discussions had evolved up to that date, all aimed at asking his general though certainly uncommitted opinion as to what his reaction might be if such a group were to be formed and were to attempt to carry on collective bargaining with his union on that basis.

Q. You say you called his attention to some problems that had evolved?

A. Oh, problems might not be the right word, in the course of our contract study which I testified to this morn-

ing and our other meetings we realized that there were some practicalities of bargaining and some existing situations which would probably render it not advisable to attempt to bargain certain subjects in this particular year on an association basis.

Q. What subjects were those?

A. Pensions, health and welfare, union security, and the rather traditional group of issues which had been traditionally handled as local issues by the individual companies or even plants that did not have a general impact.

[Tr. 446] Q. Did you tell Mr. Nelson the names of the companies that were considering participating in such an association at that date?

A. I don't think I specifically read off a list of names. However, our discussions did cover the types of companies and some companies also of those that really ought to be part of such an association if it were to be truly effective. We did discuss some corporate names at that time.

Q. You did not give him a list of the names?

A. No, I didn't, I don't recall that I did.

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Q. (By Mr. Prael) How long did this conversation take?

A. Oh, I should judge an hour and half, perhaps.

Q. Would you relate to us as nearly as you can what was said and what Mr. Nelson said and if you can give us the exact words give us the exact words and if not, the substance of what was said as [Tr. 447] nearly as you can recall in that conversation with Mr. Nelson. You say it was an hour and a half?

A. Roughly that would be my recollection. I cannot recall exact words. The gist of the conversation was an explanation by me that I had been continuing to think about the desirability in our relationships with his union of forming a fully-bound multi-employer association for the purposes of carrying on collective bargaining. I indicated that we had discussed it some with, or I had discussed it some with other people he was acquainted with in the industry and we felt there was some merit in exploring it further.

I indicated my basic reasons for it to Mr. Nelson, the basic reason of which was I wanted a format that was equipped with what I thought were the long-range forward-looking problems and challenges of the lumber industry, that the present format of bargaining, that is, the individual and the associations that could only recommend, were never going to bring us to an arrangement that could truly seek solution to some of these problems, problems such as automation and mechanization, industry-wide wage classification agreements, industry-wide grievances procedures, the elimination of restrictive practices in the contracts in the event wage increases were to be granted as costs of labor increased, that we really needed to come to grips with some restrictive work practices in the contracts that should be removed in the interest of higher productivity.

[Tr. 448] I had serious doubts this could be accomplished unless a fully-bound multi-employer group were formed, looking on down the road. It is my recollection in one word or another or one form or another, that Mr. Nelson indicated that he had substantial agreement that I might be right in the situation and that it might be desirable if it were done. I went on to say that for the first year at least in view of the fact that pensions and such were only opened by reason of prior agreement by a few companies and the same was true of health and welfare, since there was a general pattern of union shop contracts throughout the industry with the exception of Weyerhaeuser, which was itself subject to a prior-years agreement to install an agency shop, if in fact the agency was approved by the supreme court in the General Motors case, I believe it was, and that certainly it would not be wise to try to bring in the full basket of local plant issues for this kind of bargaining. If we were to put such a thing together.

I indicated that my purpose in discussing it was that those people I had been talking to and myself recognized that the unions' agreement to such a procedure would be necessary to go forward. While I was in no position to ask him to commit himself in view of the fact that he represented others and I knew he would not put himself in the position of committing himself, I was very interested

in his opinion to determine whether there was a good possibility of success should this group go forward [Tr. 449] and put together an association of the type I had described. I already said one of the things we talked about was that certain companies really should be part of this if it was to work and was to be good and I left that meeting. I described the nature of the association and again I can't come to exact words, but I described it as one that would be a multi-employer unit as I knew it in which the individual members thereof would be bound to agree to a common agreement or a common disagreement. That is the best recollection I have of that conversation.

Q. Did you have any conversation about that time with any representative of the—do you recall anything further that Mr. Nelson said during this conversation?

A. Well, I recall that his inference was that it sounded

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A. (Continuing) The substance was that it sounded all right as far as he personally was concerned. That he would discuss it with some others and if he found any contrary view he would let me know if there was, if he found such a disagreement on the part of whoever he might discuss it with.

Q. (By Mr. Prael) Did he later call you?

A. Not to relay a message of this kind, no.

Q. Did Mr. Nelson indicate disagreement with any part of the things that you were proposing?

A. Not to my recollection.

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[Tr. 450] Q. (By Mr. Prael) In the course of your conversation with Mr. Nelson, there was reference to companies that might be members of this association, is that right?

A. Yes.

Q. Were any specific names mentioned by Mr. Nelson or by you?

A. Yes.

Q. What names? And what was said by Mr. Nelson and yourself about them?

A. I mentioned, my recollection is that I indicated that I felt that organizations such as International Paper, Crown, Weyerhaeuser, Simpson, Scott, should no doubt be part of any such effort. And it is further my recollection that Mr. Nelson indicated that he felt that an organization such as Georgia-Pacific should probably be included and he may have mentioned another name or two, but I cannot recall specifically.

Q. Have you given us all the conversation that you recall with Mr. Nelson?

A. Yes, I believe I have.

Q. Did you, on or about that time, have a discussion of this [Tr. 451] subject with a representative of the LSW?

A. Yes, I did.

Q. And with whom?

A. Mr. Earl Hartley.

Q. And who is Mr. Earl Hartley?

A. I believe Mr. Hartley is the executive secretary of the Western Council of Lumber and Sawmill Workers and that may not be exactly the title, but that is close to it.

Q. Where did this conversation take place?

A. In my office in Tacoma, Washington.

Q. And approximately when did the conversation take place?

A. I believe it was the 19th of February, on or about.

Q. Is that 1963?

A. 1963, yes.

Q. And how did Mr. Hartley happen to come to your office or how was that meeting arranged?

A. I asked him for a meeting.

Q. And he came to your office in Tacoma, Washington?

A. When I first talked to him we were not sure when or where we could get together and it developed that he was going to be coming through Tacoma and we agreed to meet in my office.

Q. How long did this conversation take?

A. I would say roughly one hour.

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[Tr. 456] Q. (By Mr. Prael) Now, the question was, as I understand it you testified, coming back to the evidence, Mr. Hartley came to your office in Tacoma about the 19th of February was it?

A. Yes.

Q. And that you had a discussion of this matter with him which took about an hour?

A. Yes.

Q. And I ask you to relate to us the exact words to the extent that you remember the exact words, but if not the exact words, the substance of what you said to Mr. Hartley and what Mr. Hartley said to you. First, may I interrupt, was anyone else present during this conversation?

A. No, not to my recollection.

Q. Would you please relate to us the substance of the conversation; what you told him and what he told you?

A. The substance of—at least the opening part of the meeting was similar if not identical to that of the meeting held with Mr. Nelson in that I described my personal feelings and the feelings of those with whom I had consulted relative to the desirability of the formation of a fully-bound multi-employer unit in the lumber industry. I stated my reasons why I had reached a conclusion for myself and some others appeared to agree that such a move would be desirable. And, repeating my [Tr. 457] reasons, they had to do with developing a structure that could cope with the long-range problems and the long-range objectives of the major operators in the industry—not all the operators in the industry. We were talking about an organizations that would include companies who were concerned with the long-range as well as with the short-range considerations that problems of automation and full employment, problems of work practices that inhibited productivity rates were going to be a real problem to the industry in the competitive sense and in the market place if we did not find ways and means that they could be solved and that one of the ways seemed to me to be that major factors needed to be bargaining together and in their discussions with the unions they needed to be reaching agreements which were binding upon all of them at the same time and that there wasn't the

previous disadvantage of an individual company being concerned about coming to grips with a new procedure or a new agreement because he didn't know what others in the industry might be going to do in the same respect as to whether he might become less competitive by the fact that he might alone be asked to do it. There was recognition and statements that the unions had a great many aspirations about the future role of their members and that again, I felt that if there were ways that any of those could be realized it would need this kind of an association for solution. I pointed out to Mr. Hartley that for the first year at least, I felt that [Tr. 458] pensions, health and welfare, union security and the great mass of local issues which were always part of bargaining in the industry, probably it would not be advisable to bring them to the association table in any beginning year for practical reasons—reasons which I outlined in my testimony relative to the conversations with Mr. Nelson. I repeated those reasons and in the case of this conversation I do recall Mr. Hartley's statement which was something to the effect that he did not personally see any problem in what I had outlined. He indicated one statement he said I pointed out, he said I see what you are doing, this is the Arlington Club committee with teeth. I went on to point out what I considered the very real differences between an Arlington Club committee and what we were setting up here laying emphasis on the fully bound nature of any such membership as opposed to being free to accept or reject any settlement that might come up. I went further with Mr. Hartley into some of the—at least one example of the problems and objectives of employers such as our company, Weyerhaeuser, as an example of what I meant by some of the problems ahead. The example I chose in this conversation was the matter of continuous operations or seven-day weeks or modifications of hours of labor that I felt we needed to arrange in those operations in the lumber industry which lent themselves to continuous operations such as plywood plants, particle board plants, and things that could be economically and efficiently run on a [Tr. 459] continuous basis. Mr. Hartley said that he understood that these kind of prob-

lems were ahead of us and that solutions would no doubt be needed at some time. He did not commit himself to agreement to it at that point but indicated he understood and he said that he wanted to talk to some other people and that while he himself at that point in time could see no problem with what I had been outlining, he did want to talk to others before he went so far as to give an opinion and he said that he would do that; he was going to be seeing others that he needed to talk to and that he would call me back and let me know what his reaction and presumably those of the others were.

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[Tr. 460] Q. (By Mr. Prael) Did Mr. Hartley ask you what was meant by fully bound or did you explain to him other than that what the association meant?

A. The circumstances were to the best of my recollection, and I can't recall the exact words I used in describing fully bound, but I described the association and drew a difference [Tr. 461] between what I was then suggesting and what had been the form of association extant in the industry prior to that time and the difference I drew was that in the case of the associations that predated the one I was discussing that employer members were indeed free to look at a settlement agreement as a proposal to them to accept or reject and had left the alternative of individual bargaining and I pointed out that we meant here that when the association, if there was to be one, reached an agreement with the bargaining agent, that agreement was binding on all of them to put it into effect on all of the companies. Mr. Hartley's comment about it was, "I understand what you mean, you have an Arlington Club committee with teeth." I reiterated and I think he also said that the ghost committee is going to take off its sheets—no, I am sorry, I would like to withdraw that. I think that came up at another meeting. I don't think it was in this meeting, I am sorry but I went through the same type of explanation a second time after the comment about the Arlington Club committee because I wanted to be sure to differentiate.

Q. What does the Arlington Club committee have reference to?

A. Well, to my knowledge what it has reference to is that it was a group of employers, principals, if you please, of various companies under previous bargaining arrangements that used to get together from time to time and discuss common positions that they might take in their various bargaining sections [Tr. 462] which might have been going on as an independent company or as a member of some association or something and one of the places they chose to meet for these discussions, as I understand it, was the Arlington Club in Portland. It is because of that much knowledge about what it was that I was anxious to point out that we were not talking about that kind of a committee.

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Q. (By Mr. Prael) Can you think of anything more said between you and Mr. Hartley on or about February 19, 1963 in this hour long conversation or have you covered it in substance to the best of your recollection?

A. The only other element was one I had been asked a number of times and searched my recollection in connection with affidavits I had filed.

Q. Filed with whom?

[Tr. 463] A. That I had made for the National Labor Relations Board.

Q. In this proceeding?

A. In this proceeding. The only certain recollection I have of additional information was that I did emphasize the point that this, if it were born, would be an association to which the members would be bound to react similarly in the event of agreement or disagreement with the unions. I, at one time, included in an affidavit more than that but upon understanding that there was a difference of view as to whether that had been said in searching my own recollection in all honesty what I have just said is as far as I can personally recollect.

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[Tr. 464] Q. (By Mr. Prael) As I understand your testimony, Mr. Hartley said he wanted to confer with someone and would call you, is that correct, during this conversation?

[Tr. 465] A. Yes.

Q. Did he later call you?

A. Yes, he did.

Q. When did he call?

A. My recollection was, it was three or perhaps four days after the 19th of February.

Q. Did he call you on the telephone?

A. Yes, he called me on the telephone.

Q. I don't want to lead you but I want to get to the point. What did he say and what did you say in this telephone conversation—where were you at the time?

A. I was in my office in Tacoma.

Q. Would you tell us what he said and what you said in that telephone conversation?

A. Mr. Hartley said he had been east of the mountains and that he had been in various parts of the operating area of his union and had talked to a number of his people and that he felt that both he and those people looked with favor upon the formation of an association such as I had described to him and I said I was very happy to hear that. That, based on his opinion, we were going to continue to interview other companies and continue discussing and see what might be done in the relatively short time remaining between then and the time of bargaining. I believe Mr. Hartley asked me what kind of people we were talking to or who they were and my recollection is that I read off [Tr. 466] or quoted from memory a list of names of companies that would certainly be invited or that we would discuss it with.

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[Tr. 467] Q. (By Mr. Prael) Mr. Wyatt, had you known Mr. Nelson prior to the time of these conversations you have related to, one in December of 1962 and another one in February of 1963?

A. Yes.

Q. How long had you known him?

A. Since late 1957.

Q. And had you had dealings with him in the past?

A. Yes.

Q. In what respect?

A. I was a representative of Weyerhaeuser Company in collective bargaining matters with his union, the IWA and he was representing the IWA.

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[Tr. 468] Q. (By Mr. Prael) How long have you known Mr. Hartley?

A. Since late 1957.

Q. And in what capacity did you know Mr. Hartley?

A. I was representing Weyerhaeuser Company in collective bargaining discussions in which discussions Lumber and Sawmill Workers were represented by Mr. Hartley.

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Q. (By Mr. Prael) Mr. Wyatt, I show you a one page document headed Agreement that has been marked for identification as R-369 and I ask you if you recognize that.

A. Yes.

Q. Is that your signature by the name Weyerhaeuser Company?

A. Yes.

Q. When did you sign that document?

A. I quote from the document that it was executed in Portland [Tr. 469] Oregon on the 22nd of June, 1962.

Q. And on the lefthand side appears a signature, Western States Regional Negotiating Committee—what is that name and signature if you know?

A. By Harvey R. Nelson, Chairman.

Q. Did he sign it on or about that date, too?

A. Yes.

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Q. (By Mr. Prael) Mr. Wyatt, this agreement was the result of negotiations between IWA and Weyerhaeuser Company, is that correct?

A. The agreement set forth in R-369?

Q. Yes.

A. Yes, it is.

Q. I notice that the letters IWA or International Woodworkers of America does not appear there. It appears as Western States Regional Negotiating Committee. Is that the same as or representative of IWA or referring to IWA?

A. Yes, it is, the Western States Regional Negotiating Committee is a functioning committee of the International Woodworkers [Tr. 470] of America.

Q. Was this agreement in effect at the time of your conversations with Mr. Harvey Nelson in February of 1963?

A. Yes.

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Q. (By Mr. Prael) Does the existence of this contract have anything to do with your telling Mr. Nelson that there would be no advantage on bargaining on union security problems in 1963 with the unions?

A. Yes.

Q. Tell us what it is.

A. This was an agreement which was to my knowledge that all other companies with whom we were discussing the possibility of an association already had entered into union shop agreements with these two unions. Weyerhaeuser had not and Weyerhaeuser Company was subject to this agreement, the agreement set forth in R-369, and this agreement, pending a decision by the Supreme Court or the Ninth Circuit from which no appeal is taken, was the agreement that I had in mind when I said that it didn't seem practical to bring the question of union security to an association bargaining table if there were to be one.

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[Tr. 476] Q. (By Mr. Prael) Now after these conversations which you have related with Mr. Nelson on the one hand and Mr. Hartley on the other in the middle of February of 1963, were there further meetings with representatives of the group that were concerned with the formation of such an association?

A. Yes.

Q. And you said there was a meeting late in February?

A. Yes.

Q. You testified regarding one earlier. Approximately when did this meeting occur?

A. Approximately February 25. I am not absolutely certain that it was the 25th but it was on or about the 25th of February.

[Tr. 477] Q. And do you recall where that meeting was?

A. I think we moved the locale to Portland by then and were meeting in the Benson Hotel but I am not absolutely sure. I believe, to the best of my knowledge, that meeting was in the Benson Hotel in Portland.

Q. Who was present at this meeting as nearly as you can recall or can you name any of them?

A. Well, I can certainly name some that I know were there. Mr. Hallin, Mr. Boddy, from Crown Zellerbach were present. I am not sure about Mr. Boddy so let me say Mr. Hallin was present. Mr. Kelsey and Mr. Greeley of International Paper were present; Mr. Roberts of St. Regis, Mr. Forrest and Mr. Lewis of Rayonier; I believe Mr. Harvey of Scott Paper Company. These I am sure of. Any other names I think I would not be certain. There were others, there were more present than I have named.

Q. Was reference made to these conversations held with Mr. Hartley and Mr. Nelson?

A. Yes.

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Q. (By Mr. Prael) Would you tell us what was said and by whom in that regard.

A. I was asked by the group to report on the assignment in effect I guess I had been given earlier in the month or in [Tr. 478] late January to ascertain as best I could the attitude of the International union leaders with respect to the thought of forming a multi-employer association. I reported that I held a meeting, that I did contact them and told them that I had explained to both individuals the nature of this association and that to the best of my ability had made it clear that we were talking about the kind of arrange-

ment which differed from previous arrangements in that it would have as one of its important provisions the fact that all members would be bound to a common agreement or to a common disagreement; that I indicated that our preliminary feelings as to the practicalities of trying to discuss pensions, health and welfare, union security and local issues on the association basis—and I outlined the reactions as I could get them from these unions, these union people, to the group, reactions I have already testified to as near as I could define was favorable to proceeding to see what could be put together.

I went on and recommended to the group that based on my conversations it was my feeling that should we proceed to form this kind of an association and should we enter bargaining with these unions on this basis that I had a feeling that we—that they would accept it, that they would be willing to proceed on this basis. That was an opinion of mine expressed to the group based on my two conversations which is the way I put it to the group that day.

[Tr. 479] Q. Was any agreement reached as to how the group would thereafter proceed or who would participate?

A. Yes.

Q. What was that?

A. Well, some questions were raised on specific points of the drafts of agreement in which we had seen several of by this time or one or two at least and the agreement was reached by the group on certain changes as being desireable and certain additional avenues to be explored further. The subcommittee was asked to, I believe, solicit some more opinions around the group and to make some revisions or studies of some revisions and make further recommendations as to improvements in their drafts of agreement which we had seen up to that time.

We then had a fairly considerable discussion on what other companies might be invited to come into this group, some pros and cons as to desireability and decisions as to who might make contact with various of these companies if indeed they were to be invited.

Q. I believe your testimony was that during your conversation in February with Mr. Nelson, Mr. Nelson had suggested to you that Georgia-Pacific would be a desirable member of this group, is that correct?

A. Yes.

Q. Did you contact Georgia-Pacific in any way regarding this?

A. Yes, I did.

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[Tr. 480] Q. (By Mr. Prael) Did you make contact on more than one occasion and how?

A. I made a personal contact with—well, I should explain that these contacts I think came as a result of the instruction of the meeting. There were a number of them. My recollection is that I made a telephone call to Georgia-Pacific and I asked for an appointment to discuss some matters I had in mind and I did make an appointment and did make a call and did have a discussion.

Q. Did you write to anybody in Georgia-Pacific about this association?

A. Yes, I did. I wrote to Mr. Jack Brandis sometime after that meeting and sent him a copy of the possible association agreement as it was modified at that time for his consideration.

Q. We have marked for identification R-19. I show you what appears to be a copy of a letter. I notice the date is handwritten on the top. I think you will find on other copies that it is typed. I think this reproduced and went off the top. I may be wrong.

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[Tr. 481] Q. (By Mr. Prael) I ask you Mr. Wyatt, do you have the original of that letter?

A. No.

Q. Do you recall the original?

A. Yes, I recall the original.

Q. And when did you last see it?

A. When I signed it.

Q. When was that?

A. April 17, 1963.

Q. Do you know what was done with it?

A. Yes, I mailed it to Mr. John Brandis.

Q. You don't know where it is today?

A. No, sir, I don't.

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[Tr. 483] Q. (By Mr. Prael) I will show you Mr. Wyatt, a copy of a document which is marked R-10 in this proceeding. You might ignore the writing on the left-hand side which was my writing and put on there for identification purposes during the process of preparation of these documents but except for that have you seen the document before and do you recognize it?

A. Yes, I have seen it before and I recognize it.

Q. What is it?

A. It is a letter to Herb Gaustad, Industrial Relations Director of Kimberly Clark Corporation in Neenah, Wisconsin.

Q. By whom was it written?

A. By me.

Q. When?

A. March 19, 1963.

Q. Do you remember seeing the original?

A. Yes.

[Tr. 484] Q. Did you sign it?

A. Yes.

Q. What did you do with it then?

A. Mailed it.

Q. Do you know where it is now?

A. No.

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[Tr. 485] Q. (By Mr. Prael) I am referring now to a document marked Respondents' 269 which has heading revised draft. On the third page appears the date March 19, 1963. Do you know whether 269 accompanied that letter?

A. I would say that it did.

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Q. (By Mr. Prael) I will show the witness R-11. Calling your attention to the letter to Mr. Gaustad which says in the second paragraph, "I have also enclosed a suggested draft of a letter which might be used in opening the contracts for the current year", is that the draft referred to?

A. Yes.

[Tr. 486] Q. (By Mr. Prael) Mr. Wyatt, I will show you Respondents' 252, a letter dated March 6, 1962, from someone from the Northwest Timber Operations, do you know who that is?

A. Yes, Mr. E. M. Boddy.

Q. And his initials appear on the left?

A. Yes, it says EMB.

Q. I am also showing you a document called revised draft, dated on the third page 3-7-63. Do you recall that document?

A. Yes.

Q. Is that one of the various forms of drafts that this agreement went through?

A. Yes, if I am not mistaken this was about the third.

Q. About the third. We are talking about the form of agreement which was used to form the association, is that correct?

A. Yes.

[Tr. 487] Q. Did you receive that? Did you receive the original of that letter which is now R-252 shortly after the date it bears together with the revised drafts referred to therein?

A. Yes, shortly after March 6.

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[Tr. 488] Q. (By Mr. Prael) Yes, certainly.

A. Well, you asked me the date of the meeting at which I reported to the group, my conversations with Messrs. Nelson and Hartley. I testified I thought it was about February 25th. This letter, R-252 which you handed me refreshes my recollection in that it states positively that I was correct in recalling the [Tr. 489] Benson Hotel but it was held on February 27th and not the 25th.

Q. Are you referring to the statement in the letter dated March 6, 1963, that is R-252 which says, "At the full committee meeting which was held in the Benson Hotel February 27th it was determined . . .", et cetera?

A. Yes.

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Q. (By Mr. Prael) Mr. Wyatt, I will show you a letter marked in this proceeding as R-283 and I ask you if you received the original on or about the date it bears or shortly after.

A. Yes, I did.

Q. The letter is dated March 19, 1963.

Trial Examiner: You didn't say but I assume that is from Mr. Boddy.

A. Yes, this is from Mr. Boddy.

Q. It refers to another draft of the meeting discussed at our meeting of March 15. Did you attend that meeting on March 15?

A. Yes, I attended a meeting at about that time. I am not sure and my recollection is not clear as to whether this particular meeting on March 15 was a meeting of Mr. Boddy's subcommittee which conceivably I did not attend or whether it was a meeting of the total group which I did attend.

Trial Examiner: May I ask a question. You gave the date of your meeting with Mr. Nelson as I recall about 3-15.

[Tr. 490] A. No, 2-15. We held several meetings of the group in the month of March around these dates. There were also some meetings of the subcommittee and I did not attend all of those subcommittee meetings but I attended every group meeting which was held of which there were several in that period.

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Q. (By Mr. Prael) I will show you a document which is marked R-268 which is headed revised draft and consists of

a number of pages. The third page, I believe, is dated 3-15-63 and I ask you if you recognize that.

A. Yes.

Q. What is that, is that another one of the drafts?

A. Yes, I think this was in the neighborhood of number 4 or perhaps number 5.

Q. I might say, Mr. Byrholdt, on the third page there is some handwriting and if it becomes necessary to do we can track down whose handwriting it is. Is that your handwriting by any chance on the third page of this document?

A. Mine? No, it is not.

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[Tr. 491] Q. (By Mr. Prael) Do you recall?

A. No, I don't.

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[Tr. 492] Q. (By Mr. Prael) Do you recall whether or not the day you saw Mr. Nelson—that was in Portland, was it?

A. Yes.

Q. It was also on the same day of the meeting of the group meeting to discuss this?

A. I did not think there was such a meeting. I think there was an attempt made to pull one together about that time but it was delayed and I believe finally not held until the 27th, to the best of my recollection.

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[Tr. 500] Q. (By Mr. Prael) I will show you this telegram, Mr. Wyatt, which has been marked for identification as a telegram which apparently was sent on February 12, 1963. It says, "M. A. Roberts has informed me that the Seattle meeting as scheduled for Friday, February 15, beginning at 10 a.m., will be held in the Olympic Hotel" • • •"

Trial Examiner (interrupting): You won't need to read it if you are going to put it in evidence.

Q. (By Mr. Prael—continuing)—it is signed by E. M. Boddy." Now, with this telegram before you, does that

refresh your recollection as to whether or not there was, in fact, a meeting on February 15?

A. Yes.

Q. And do you recall now whether you did attend such a meeting as is referred to there as February 15 in the Olympic Hotel?

A. Yes, it was held on February 15 in the Olympic Hotel, and yes, I did attend.

Q. What time was this meeting?

A. To the best of my recollection it was held beginning around 10 o'clock in the morning.

Q. Now, we have fixed the date of that meeting. Are you able to state with any more certainty when you had this meeting with [Tr. 501] Mr. Nelson which you referred to on or about February 15?

A. Yes, I believe in view of the establishment of this meeting which I did attend that my meeting with Mr. Nelson—the 15th I have established was a Friday—I believe my meeting with Mr. Nelson must have been held in the afternoon of the 18th, the following Monday, as opposed to the 15th as my recollection indicated yesterday.

Q. What time of the day was the meeting with Mr. Nelson?

A. It is what I would call the late afternoon, sir, 4 or 4:30, something on that order.

Q. Is it your recollection that you met with Mr. Nelson sometime after the meeting that has now been established as being held on February 15?

A. Yes, sir; yes, sir, yesterday in my testimony I attempted to recall that there was a meeting in early February and one in late February. It is now my recollection that the meeting of February 15, which I have established as being held, was the one I referred to yesterday as the early February meeting. Obviously it was mid-February. That meeting was the one in which I was requested by the group to determine the attitude of the International leadership relative to the possibility of an association. Hence I conclude that my meeting with Mr. Nelson was necessarily after the meeting of the 15th, at the earliest late on the 15th, or over that week-end on Monday, which would be the 18th,

and it is my recollection that it was very probably [Tr. 502] the 18th.

Q. You also testified as to having a meeting with Mr. Hartley in your office on the 19th. Do you recall whether the meeting with Mr. Nelson was before or after the meeting with Mr. Hartley?

A. It is my recollection that them eeting with Mr. Nelson was before the meeting with Mr. Hartley, which is another way that I established it must have been the 18th.

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Q. (By Mr. Prael) Your present recollection is, after being refreshed by these various documents, that the meeting with Mr. Nelson was not on the 15th but on the 18th, is that correct?

A. That is to the best of my recollection.

Q. Have you refreshed your recollection in any other way?

A. Yes, I called my secretary last night and asked her to check her appointment calendar back to that point and she indicates that I had set aside time on the 18th for the meeting with Mr. Nelson. Oh, and I checked the logs of the company airplane which also show that I made a round-trip to Portland on that day.

Q. A round-trip to Portland on the 18th?

[Tr. 503] A. The 18th.

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Q. (By Mr. Prael) Mr. Wyatt, after these meetings with Mr. Hartley and Mr. Nelson, I think you testified yesterday, and it is shown by one of the documents, that there was a meeting on February 27.

A. Yes.

Q. You testified in part at least about what went on at that meeting relating to the fact, as I recall it, that you reported to the group the conversations you had had with Mr. Nelson and Mr. Hartley. Now, would you tell us what else transpired or was discussed or agreed upon at that meeting of February 27?

A. Yes. In addition to reporting that I felt the attitude of the International leaders was or would probably be favorable to bargain on the basis I had suggested to them, we went to the question of what do we do now, and it was determined by the [Tr. 504] group present that we should proceed, continue with the implementation steps that were held to be necessary to form this association.

There were several who made comments relative to the various drafts of agreement which had been made available to the group up to that time and we directed the sub-committee to take those suggestions and comments under consideration and proceed to complete and rewrite drafts of agreement embodying those suggestions which were agreed upon.

It is my recollection that this was the meeting, either this one or the next one, but I think it was this meeting that representatives of the Simpson Timber Company and Scott Paper Company indicated that for various reasons of their own they probably would not be able to join such an association were it formed, given that such an association turned out to be one in which all the members were fully bound to a common result, but that they would not find it possible to be part of such a group.

Q. These are the two companies shown in some of the earlier drafts, Simpson Timber Company and Scott Paper Company, their names are mentioned in the Exhibit A attached—

A. (Interrupting) Yes, their names are mentioned and they had been active participants in the discussions that had been held up until that time, and it is my recollection that it was this meeting of February 27 when we were first advised that if [Tr. 505] we had a fully-bound multi-employer unit that they probably would not be able to join.

Q. Was there consideration of any—did this change the plans?

A. Well, this announcement or this news caused us some concern about whether we were going to have or would have a fair representation of employers with similar long-range interests as part of the association. As to whether

this was the general advisability was discussed, as to whether it remained as advisable a thing to do as it had appeared prior to this information from Scott and Simpson.

Q. This reduced the number of possible participants from eight to six, is that right?

A. As we saw it then, it did.

Q. Yes.

A. And we had a considerable discussion about whether others should be invited and if so, who they might be. A number of names of other companies were suggested by various ones in the group as being the type of companies that might be invited, that it might be desirable to invite in order to have a representative segment of the industry in the association.

Q. What companies were considered and what steps were taken?

A. Well, we were—among those suggested were Georgia-Pacific and the Ralph Smith Lumber Company, which was by then a part of Kimberly-Clark Corporation, so it would be Kimberly-Clark, Edward Lyons Lumber Company, Evans Products, Roseburg Lumber [Tr. 506] Company, Willamette Valley, Santiam, McCloud Lumber Company. There may have been a few others, sir, those were among those mentioned. I was directed to engage in discussions with Georgia-Pacific and with Kimberly-Clark. I believe I already had had some discussion, informal personal discussion with representatives of those two companies before this date, but I was at this point instructed to make more formal approaches to them about the desirability of their joining.

Q. No agreement at that time was reached as to final agreement on forming an association, is that right?

A. No, it was not reached and I think it was primarily not reached because of the fact that eight had become six and this might make a different situation as to desirability. Everybody wanted to think about it and everybody wanted to explore possibilities of obtaining other members.

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[Tr. 507] Q. (By Mr. Prael) Was any consideration given to when the association should be, when the organization should be completed? Was that discussed at this meeting at all?

A. Only to the extent that we should form it as soon as we possibly could reach a conclusion that we were ready to go ahead and that in any event if the association was to make openings on its own behalf with the International unions it would have to be done prior to April 1, which was the 60 days prior to contract expiration, and if we were not formed as an association by April 1, we would have to consider the form of opening that we might make in view of the deadline date of April 1 for opening.

Q. Is that approximately all that happened at this meeting of February 27?

A. Well, there was a lot of discussion about these other companies, pros and cons, were they the right kind to have in or have out and who might talk to them and who knew them best. There were correspondence-letter discussions. I think I have mentioned the major points discussed.

Q. Were there further meetings of the representatives of this group, the principals, regarding this subject?

A. Yes, there were.

Q. When was the next meeting, if you recall? I think we have documents that pointed out a date of February 15.

[Tr. 508] A. The record already shows I have trouble with dates a year and a half ago, with specific dates, but I believe we had a meeting right around the 15th of March, another one toward the end of March, around the 25th, and then I am certain we had the meeting on April 12.

Q. Can you tell us what happened at the meetings? Where was the March 15 meeting, if that was the date?

A. That was in Portland, Oregon.

Q. Can you tell us what was decided at that time and what was the discussion and substance?

A. Well, we had, in the meantime, additional drafts. We had one, a draft of March 7, and we had a draft of—

Q. (Interrupting) You are referring to what is in the record as R-256?

A. I am not sure of the number.

Mr. Prael: I am just making that statement for the record.

A. (Continuing) We had considerable discussion of those drafts. I believe either at this meeting or the next one we were aware that the International unions were going to be interested in a three-year contract as a result of this bargaining and we recognized and discussed the fact that if we believed in this approach and we wanted to establish it for the benefit of all concerned, that we had some pressure to do it this year or perhaps be precluded for three years rather than one year should a three-year contract be arrived at, and I believe we knew by the [Tr. 509] 15th, maybe it was the 25th, but at any rate——

Mr. Prael (interrupting): One moment, may I see Exhibit No. 372?

Q. (By Mr. Prael) This has been introduced in evidence, Mr. Wyatt, as R-372, a letter dated March 6, by Harvey R. Nelson, directed to the locals, and the attachment shows the openings and demands being made and the second one reads a three-year agreement. Is that the factor you referred to when you just testified that you had learned that the unions were desirous of entering into a three-year contract?

A. Yes, this was one of the ways we knew of it, but this letter from Mr. Nelson to the locals is dated March 6. It does not tell me exactly when the locals may have issued the samples suggested, so whether we had this at the meeting of the 15th or whether it was the 25th, I am not entirely certain, but at one of those two we did know of the three-year approach and had an extended discussion about the increased desirability if we believed in this approach we really should make every possible effort to do it in 1963 because as employers none of us had any particular objection to the three-year approach either. So, adding the union demand to our feeling that it probably was a sound approach, there was every likelihood that a three-year contract would come out of the 1963 bargaining which would close off any attempt

to form a multi-employer association until 1966. So we felt that there was an additional urgency to put it together [Tr. 510] for 1963 and did discuss it.

Q. I have interrupted you about your discussions and the factors in the meeting of March 15 or March 25, which was it you were testifying about?

A. I believe you asked me about the 15th and I said this discussion about the three-year contract and its impact on the timing of the formation of the association occurred at one of those two meetings.

Q. You referred to the fact that opening notices had to be given by April 1. That was by the individual companies which had contracts with the LSW or the IWA, or both, is that correct?

A. Yes.

Q. Those contracts pretty uniformly expired on June 1, is that right?

A. Generally throughout this group that was considering it that was true. I am not sure that precisely each contract had that date, but a great majority of them had that date.

Q. I might ask you if you would explain the word opening, which is apparently very common in this industry, but may not be understood generally.

A. We mean by opening, [by] notice of the employer to the union or the union to the employer of his desire to open the existing bargaining agreement for the purpose of bargaining either specific or general changes.

[Tr. 511] Q. If you have an opening on wages you have given notice you want to bargain a change in wages, is that correct?

A. Yes.

Q. Now, as I understand it, the various contracts, then, which were in effect, the would-be bargaining notice had to be given by when?

A. April 1.

Q. What was done in that regard?

A. Well, returning to these two meetings, we turned our attention at one of these two meetings, and I think it was probably the meeting of the 25th because I am certain that we then knew of the union's openings, and the nature of

them, we turned our attention to subject matter that we, as a group, would want to discuss or felt desirable to have discussed in 1963 bargaining as to what were the common interests of the group that we would like to have discussed in the hope that we would reach an agreement as to what we as employers or as an employer association would like to open the contract to discuss.

Q. There has already been introduced in evidence a form which is called draft dated 3-14-63, R-11. Do you recognize that? I think the evidence shows that was enclosed with one of your letters, either to Georgia-Pacific or Kemberly-Clark, but was that a form prepared by the committee or considered by this group, is that what you had reference to?

[Tr. 512] A. Yes, this was an early form of it.

Q. To your knowledge did the various companies thereafter send out a form of opening generally agreed to by this group?

A. Yes.

Q. This has been marked as R-197. Mr. Wyatt, I will show you a copy of a letter dated March 27, 1963, which has been marked for identification here as R-197. I ask you if you recognize that as a form letter you discussed and agreed upon.

A. Yes, this was agreed upon as the form of opening which the then interested participants agreed should be dispatched to their appropriate bargaining agents to accomplish a timely opening of their contract in a manner reasonably uniform to the other interested potential members.

• • • • •

[Tr. 513] Q. (By Mr. Prael) I will show you a letter which has been marked for identification as R-198, on the letterhead of Weyerhaeuser Company, dated March 28, 1963, and addressed to Local 3-101, IWA-CIO. Do you recognize that as a similar letter sent out by Weyerhaeuser Company about that time?

A. Yes, I do.

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Q. (By Mr. Prael) I show you another letter which has been marked for identification as R-199, also on the letterhead of Weyerhaeuser Company. It is addressed to Local No. 1845, LSW-AFL-CIO. Do you recognize that as a similar letter sent out by Weyerhaeuser Company about that time?

A. Yes.

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[Tr. 515] Q. (By Mr. Prael) As I understand your testimony, there was a meeting about March 15 and another one later in March, March 25. Have you told us, in substance at least, what transpired at both those meetings?

A. Well, there was the, I testified that we discussed desirability of mutually uniform openings because of the pending [Tr. 516] arrival of April 1, to make openings under that date the only other thing was that we did agree to send that. We agreed on the items on which we wanted to open, which were hours of labor and overtime and grievance procedures, and we agreed that we would all, through the processes and the channels previously used by each of the companies considering membership, that we would make opening letters on these points on the theory that if we had an association, proceeded to bargain as a unit, we would all have satisfied the requirements of the previous bargaining agreement having the contract open on the points we all wanted to discuss.

Q. In the meantime the companies received notices from the unions on the other hand, is that correct?

A. Yes, we had opening notices from the unions by this time, by the 25th.

Q. Did you continue to make further efforts to enlist the interests of other employers in addition to the six now to participate in the formation of this association? I am referring you now, for instance, to Respondents' Exhibit No. 10, which is your letter of March 19, 1963, to Kimberly-Clark. Did you receive any reply from them?

A. Yes, I received a—several replies or conversations on several occasions after writing a letter to Kimberly-Clark with Mr. Gaustad, asking me some question and stating what

he thought their problems were and so on. Finally it was culminated. [Tr. 517] I am not sure of the date. Did you say that the letter to Mr. Gaustad was March 19?

Q. Mr. Gaustad is the gentleman from Kimberly-Clark?

A. Yes.

Q. That was March 19.

A. Yes, I had heard from Mr. Gaustad on several occasions.

Q. Did you report that to the group, what his reaction was?

A. Yes, I did. I think I indicated to them at the meeting of March 25, if that is the exact date, March 25, or the meeting of April 12, I believe it was the meeting of March 25, that it was unlikely that Kimberly-Clark would be interested in going along and joining us.

Q. Does that cover all that you can recall that transpired in these meetings of March 1963?

A. Well, other than discussions about the status of the draft of agreement, suggestions were still coming in.

Q. As I understand it, no final agreement of the form of an association was concluded in these March meetings, is that right?

A. That's right.

Q. When was the matter next taken up by a meeting of the group?

A. At the meeting of April 12.

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[Tr. 519] Q. (By Mr. Prael) Maybe you can explain it.

A. I have already testified, Mr. Examiner, that we did discuss at these meetings the matter of the three-year agreement which we learned of by the union opening and I would also point out the letter already in evidence, R-150, refers to a letter from the unions of March 7, R-199, refers to opening letters received from the unions on March 15 and March 28.

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[Tr. 520] Q. (By Mr. Prael) Did the six companies, Mr. Wyatt, give timely opening notices under all contracts for all branches, to your knowledge?

A. To the best of my knowledge all of the prospective members did accomplish timely openings.

Q. And as you point out, as indicated by the documents already in evidence, these openings by the company, at least in the illustrations we have and probably most cases, followed openings already served on the company by the various local unions involved, is that correct?

A. I think in the great majority, if not all cases, they followed. It was a response to a union opening. The first paragraph usually says—

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[Tr. 521] (By Mr. Prael) The matter was next taken up, then, on April 12, was that the next meeting as far as you can recall?

A. Yes, my recollection is that the next meeting was April 12.

Q. Would you relate what happened? Where was that meeting held?

A. That was held at the Benson Hotel in Portland, Oregon.

Q. And you were present?

A. Yes, I was.

Q. Will you tell us who else was present as far as you know?

A. Yes. The Weyerhaeuser Company, which I represented, was present by myself.

Trial Examiner (interrupting): You were the only representative, then?

The Witness: I was trying to recall. I believe there was another representative from Weyerhaeuser accompanying me at that time, but I am not sure who it might have been. Mr. Witt or Mr. Hoffman, probably.

A. (Continuing) Rayonier was represented by Mr. Forrest and, I believe, Mr. Lewis. U. S. Plywood was represented by Mr. Frank Doherty. Crown Zellerbach was represented by Mr. Otis Hallin and Mr. Boddy, and perhaps Mr. Clarence Richen. Regis was represented by Mr. Mike Roberts and, I believe, Mr. William Haselton. I do not

recall whether Mr. McMahon was present at that meeting or not. International Paper was represented by [Tr. 522] Mr. Harry Kelsey and Mr. H. J. Greeley. Again, I don't recall whether Mr. Ralph Kittle was present or not. Let's see, have I named all six? Weyerhaeuser, International, Rayonier—yes, that is six.

If I have named the six companies that would be it.

Q. They were all represented there?

A. Yes, they were.

Q. Would you tell us what went on at that time, this was at the Benson Hotel in Portland on April 12?

A. Yes.

Q. Would you tell us what transpired at that time?

A. I asked each company to report as to whether opening letters in substantially the form agreed upon previously had been sent in timely fashion prior to April 1. Generally, we all knew what each other had done, but had never sat down and cleared it all at one time, and we cleared that we all had done so.

If I had not already reported at a prior meeting, I did report then that I did not believe that Kimberly-Clark or Georgia-Pacific was very apt to join us although, in the case of Georgia-Pacific, some interest had been expressed, but they did not wish to attend that meeting of April 12 and really rather wanted to be kept advised and were still debating it, or at least considering it, or at least had not given a definite answer.

There then followed a general discussion of where we stood [Tr. 523] in all that had happened. There was available then the draft of possible agreement which was dated, I believe, the 19th of March. That draft—no, no; I think it was a revision of the 19th of March, the final one, but at any rate, a draft. The last in the series of drafts was available to us for consideration and discussion and possible action. The various companies represented, all six of them, expressed themselves as to how they felt under all the circumstances of union openings, our objectives, the way we felt about the total situation, the fact that there had been eight and there were now six, we had not apparently been successful in increasing the membership, was

this the thing to do, could we accomplish the long-range objective, did we have the vehicle with which these objectives could be accomplished if really this was the largest group we could get. There was considerable discussion of the fact that on the part of some companies that we really needed to do this now, because it was then clear that three-year agreements had every reasonable possibility of being adopted.

Then the U. S. Plywood representative, Mr. Doherty, who, I believe is industrial relations manager for Northern California, or something of this order, indicated that it was his feeling that his company, U. S. Plywood, probably would not be willing to go along on the grounds that an organization of this size in an industry and with unions of the size they were representing great numbers of companies and locals, that this [Tr. 524] organization might not really be able to accomplish what we set out to do in the long-range continuing nature of establishing a new pattern of bargaining and they indicated, or Mr. Doherty indicated a very great concern as to whether U. S. Plywood would, in fact, go along. Upon this statement by Mr. Doherty, I recall, I expressed personally the fact that if, in fact, the six was to become a five-member association by the withdrawal at that point of U. S. Plywood, that then, under those circumstances, speaking for Weyerhaeuser Company, I had some very real concern, despite the three-year contracts that we were starting, that this was really getting to be to the point where I could not conscientiously say to my company that we had a chance.

Q. You said several times that the union was demanding a three-year contract at that time. Would you explain how that affected your decision?

A. You mean the decision of which I am just talking?

Q. Yes.

A. Well, the three-year contract demand by the unions, and from many industrial people with whom I had talked to, were not very much in disagreement at that time with the three-year proposal.

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[Tr. 525] Q. (By Mr. Prael) We can go back to this meeting. I don't think you have finished testifying about the meeting.

Trial Examiner: I just want to point out now on the record that while we were off the record it was discovered that part of an answer to a prior question didn't have a chance to get into the record, so if Mr. Wyatt is given an opportunity, I think he can finish that.

Mr. Prael: Now he has two incomplete answers, the last one I asked him about was the three years.

Mr. Byrholdt: May he conclude his answer to the previous question that he indicated he has not completed?

Trial Examiner: I think that was the answer that was interrupted, or at least that the question came in so fast on that that the reporter didn't get it. Mr. Wyatt remembers what that was, so I will just ask him to add the conclusion here.

A. Well, I felt with the reduction of potential membership from six to five I was afraid that I couldn't conscientiously recommend to my company that such a further reduction would continue to make it possible to obtain the objectives, the long-range objectives of forming this association in the first instance. We had then become conceivably too small a segment of the total bargaining groups and the total number of factors in the industry.

If I could go on and clear up this confusion, I think I can.

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[Tr. 526] Q. (By Mr. Prael) Now, you started to explain to us the fact that the unions were demanding a three-year contract and how that affected your decision at that time. Would you explain that?

A. I think it is better to say that it was affecting everybody's thinking at that time, including mine, and any change away from the formation of this association I viewed with considerable regret and considerable misgiving because I felt we needed to go ahead and one of the reasons was the fact that there was very likely going to be a three-year closure which meant that the matter of this kind of an

association wouldn't be timely for a three-year period. So, I felt an urgency on the one hand to perceive and establish this kind of an association for the mutual benefit and for the objectives I testified to earlier. On the other hand, I recognized that with the size of the industry and the number of total employment, the number of locals, the number of industry factors, that a group, if it were only the five, might not be able to accomplish those objectives, might not be able to be able to establish constructive patterns in the industry as a result of bargaining, and I was concerned about that upon learning on April 12 that possibly U. S. Plywood did not care to go along even if there were six.

Q. Will you continue with what further happened at the meet- [Tr. 527] ing of April 12?

A. Yes. Other members of the group, notably and particularly Mr. Hallin and Mr. Kelsey, were quite anxious to contact higher management levels of U. S. Plywood to be completely certain as to what their position was. Mr. Doherty had made it clear that he felt he was just giving a report on the behalf of others in his organization, and Mr. Hallin and Mr. Doherty in particular, I believe, felt that they should find out from others in the U. S. Plywood organization what their position really was, so we could reach a conclusion as to whether we should proceed or not proceed.

So we took a recess in the meeting and Messrs. Hallin and Kelsey proceeded to contact West Coast management people of U. S. Plywood Corporation and returned to the meeting later, 30 minutes or an hour later, and said that they had contacted others in U. S. Plywood and had determined that it was the official position of U. S. Plywood Corporation that they would go along and would join such an association and were ready to do so if the other five companies did so.

At that point, I believe I expressed myself for Weyerhaeuser that on the six-company basis, given U. S. Plywood participation along with the others, that we would go along, that we felt it desirable to proceed and establish the association, and it is my recollection that all six companies made similar commitments.

[Tr. 528] Q. Then what was the next step?

A. Well, it was an examination of the current form of the draft of agreement by all present. I am not entirely certain, sir, whether a suggestion for change was made again at that meeting and a change was affected, or whether the draft before us that morning, that afternoon, was approved. There may have been still a minor change of one kind or another made in that draft, but at any rate, I believe, my best recollection is that one or two minor changes were suggested in that draft at that time, that is, at the meeting of April 12, and arrangement were made for the production of a number of copies of that final draft as of incorporating the changes suggested on April 12.

We made arrangements to get them produced and to establish some logistics for signing, for getting them signed.

Q. As I understand your testimony, all the companies agreed on that date to sign the agreement but it was not signed.

A. That is correct.

Q. Did you communicate that fact, or any of those events, to any representative of IWA on that date?

A. Yes, I did.

Q. To whom and how?

A. I called Mr. Nelson on the telephone and advised him that it appeared we had an association in being or on the way, and we were going to have one to bargain together and I told him [Tr. 529] who the members would be and we went directly then to the question of meeting dates in that conversation and we agreed that Weyerhaeuser had established dates with the International Woodworkers on a period of days beginning April 24, and the suggestion was made that the association might use those dates. I requested of Mr. Nelson that we have a little more time since the association was just at that moment being put together, and Mr. Nelson pointed out to me that he had already been in bargaining sessions or had been scheduled, or had been in them, with other industry segments, other factors in the industry, and that if we were not to proceed on April 24 it might be necessary for him to have second meetings with some of these other segments which we were

both agreed was probably not in the best interest of the union-association relationship, but that we should have our opening meetings between the IWA and the association prior to any second round, if you will, with other segments.

So I agreed with Mr. Nelson that the association would meet with him on April 24.

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Q. (By Mr. Prael) Did you, on or about that time, communicate to any representative of the LSW regarding what had happened on April 12 at this meeting you have described?

[Tr. 530] A. Yes.

Q. And with whom did you communicate and how?

A. I communicated with Mr. Earl Hartley by telephone.

Q. And would you relate what that conversation was?

A. I reported to him that an association had been formed and we proposed to bargain with his union as a multi-employer unit. He asked me who the companies were and I told him who the companies were and that all of them had reached oral agreement to proceed on this basis. He asked me about arranging meetings for bargaining on this basis and I asked him if he did not mind I would like him to call Mr. Chet Boddy, who was the secretary of the Association, to arrange suitable dates.

Q. In either of these conversations did Mr. Hartley express any objections—well, I will ask you first, have you related all the conversation you had with Mr. Hartley in that telephone call?

A. To the best of my recollection, yes.

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[Tr. 531] Q. (By Mr. Prael—continuing) Did Mr. Hartley, during that telephone conversation, express any—did he express agreement [Tr. 532] or disagreement with what you told him you proposed to do?

Mr. Toulouse: I object to the form of the question. It is a characterization of the statement of the witness as to what was said in the conversation.

Trial Examiner: I am going to overrule this objection, but I want the witness to bear in mind that the question conveys the idea did he express in any form of language anything that indicated he either was or was not willing to bargain with such an association.

A. To the best of my recollection when I outlined the fact that an agreement had been reached by the six companies to bargain together with his union, his response—well, first, I did not give him the names and he asked me, “Well, who are they”, and I believe he asked me whether or not there may not have been one or two others, and I said no, this is the list, this is the group that has agreed to bargain together, and he said, “Well, fine, let’s set up some meeting dates”, and I said that I wasn’t in a position to determine the calendars of all the individuals in the companies and asked him if he would call Mr. Boddy for the dates and he said he would be glad to call Mr. Boddy and I said, “Well, Chet is the secretary and he will be glad to set up dates to meet with your group”, and I think Earl said, “Are you going to be the spokesman”, or words to this effect, and I said “Yes, I think maybe I am stuck”, or words to that effect, and he laughed and said, “Well, fine, I will set [Tr. 533] up some dates with Chet”.

Q. (By Mr. Prael) Chet who?

A. Mr. E. M. Boddy.

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Q. (By Mr. Prael) Do you recall when this conversation, the telephone conversation with Mr. Nelson, occurred? It was on the 12th, but I mean the time of day.

A. Well, it was on the 12th, and it was after the meeting and after I knew that we had an agreement among the six companies to proceed and that was, I would say, immediately after or as close after the meeting as physically possible.

Q. Could you tell us when on the 12th you had the telephone conversation with Mr. Hartley?

A. It was either just before or just after the call with Mr. Nelson. I don’t know which one I was able to contact

first, but I accomplished both contacts as soon as I could reach the individuals on April 12 after the conclusion of the meeting at which a firm agreement was reached to proceed.

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Q. (By Mr. Prael) Mr. Wyatt, I will ask you if you recognize [Tr. 534] that letter.

A. Yes, I recall this letter.

Q. This refers to the telephone conversations that you have just testified to?

A. Yes.

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Q. (By Mr. Prael) This is on the letterhead of Crown Zellerbach Corporation, dated April 17, 1963, addressed to various gentlemen, Mr. Greeley, Mr. Roberts, Mr. Bradshaw, Mr. Leeper, and is signed "Chet". Do you recognize the signature, Mr. [Tr. 535] Wyatt?

A. Yes; Mr. E. M. Boddy's signature.

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Q. (By Mr. Prael) This is a letter dated April 15, 1963, on the letterhead of Weyerhaeuser Company, signed—do you recognize the signature on that letter?

A. Yes, that is the signature of Mr. Eugene Hoffman, Director of Personnel of Weyerhaeuser Company.

Q. Do you recognize the writing on the bottom?

A. It appears to be written by Mr. M. A. Roberts, whose signature appears at the bottom.

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[Tr. 536] Q. (By Mr. Prael) Who is Mr. Bill Haselton, spelled with an "s"?

A. He is the vice-president in charge of all Western operations for St. Regis.

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Q. (By Mr. Prael) I will show you a copy of R-159 and ask [Tr. 537] you—this is a copy and it does not indicate the signature except on the left-hand side, J. K. Lewis. Who is J. K. Lewis?

A. He is industrial relations supervisor for the Northwest Timber Division of Rayonier Corporation.

Q. This is a letter dated April 18.

A. Yes, sir.

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[Tr. 539] Q. (By Mr. Prael) Mr. Wyatt, I will show you Respondents' Exhibit No. 206, which is the agreement dated April 22, 1963, and ask you if you recognize it and are you familiar with it.

A. Yes, I recognize it and I am familiar with it.

Q. And on the fifth page, under the typewritten words "Weyerhaeuser Company" appears a signature. I will ask you if you recognize that.

A. Yes.

Q. Whose signature is it?

A. Mine.

Q. There is a date by that, whose handwriting is that date in?

A. Mine.

Q. What does that date indicate?

A. That I signed on April 15, 1963.

Q. Do you recognize—are you familiar with the signature of [Tr. 540] Mr. Hallin?

A. Yes.

Q. Do you recognize his signature on this document?

A. His signature appears under the capital letters "Crown Zellerbach Corporation, by", and then it says O. D. Hallin, and that is his signature and there follows the date "4-22-63".

Q. Do you recognize his signature?

A. Yes.

Q. Do you recognize Mr. Kelsey's signature under International Paper?

A. Yes.

Q. Do you recognize the signature under Rayonier, Inc.?

A. Yes.

Q. Whose?

A. Mr. Len Forrest.

Q. Have you seen that signature before?

A. Yes, sir.

Q. Do you recognize the signature under St. Regis Paper Company?

A. Yes, William R. Haselton.

Q. That is the gentleman referred to in the previous exhibit we referred to?

A. Yes, when we had the trouble with the "z" and "s".

Q. He signs it "s"?

A. Yes.

[Tr. 541] Q. Do you recognize the signature of U. S. Plywood Corporation?

A. Yes, Mr. Marshall Leeper.

Q. Who put the dates on here, do you recall, or do you know?

A. The only one I know of my personal knowledge is the date I put on which is 4-15.

Q. That is the date you signed?

A. Yes, sir.

Q. You as a matter of personal knowledge did not see any of the others sign this document?

A. There was one signature on the document already when I signed it.

Q. Whose signature was that?

A. I did not see it put on. That was the signature of Mr. William R. Haselton.

Q. Later did you receive, did your company receive one of the executed copies of this document?

A. I believe we did, yes.

Q. Was the date April 22 on it at the time you signed it?

A. No, there wasn't any date, at least to my recollection there was no date at the top.

Q. Do you know whose writing that is?

A. No, sir.

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[Tr. 542] Q. (By Mr. Prael) We have in evidence certain letters which are R-159 and R-57, indicating that an association agreement was sent from one person to another. Were the arrangements for the execution of this agreement made at the meeting on April 12 or when?

A. Arrangements were made as I testified earlier, we discussed the logistics of getting the document signed once the final copies of the final draft was drawn up, and the arrangements for getting the various peoples' names on it were discussed at that meeting, the meeting of April 12.

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[Tr. 543] Q. (By Mr. Prael) Mr. Wyatt, I show you Respondents' Exhibit No. 201, which is a letter of April 17, 1963, on the letterhead of Weyerhaeuser Company, and I ask you if you recognize that?

A. Yes.

Q. What signature is on there, yours?

A. Yes.

Q. And sent to Mr. Harvey Nelson on or about the date it bears?

A. Yes.

Q. And what was the purpose of sending this letter?

A. To notify the union that we had delegated bargaining authority to the Association and to indicate willingness to meet as a member of the Association.

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[Tr. 544] Q. (By Mr. Prael) Was the form of this letter discussed at the meeting of April 12 or at any other time with the other principals involved in the formation of the Association?

A. Yes.

Q. When was it discussed?

A. It was at least discussed on April 12 and may have been discussed subsequently. I am not entirely sure as to other times that discussions about this letter might have been held.

Q. The letter states, among other things, the undersigned company is a member of a voluntary multi-employer association, and then it states the secretary of the Association bargaining committee is Mr. E. M. Boddy. How was he selected as secretary and when?

A. It is my recollection that Mr. Boddy was selected as secretary about the time I was selected as chairman or spokesman, [Tr. 545] and I—March 15, March 25, it is my recollection—

Q. (Interrupting) Well, the letter was dated April, so it was sometime prior to that?

A. It was prior to that and I think it was prior to April 12. It might have been at the April 12 meeting.

Mr. Prael: Mr. Byrholdt, I give you three copies of a document already identified as R-203. This document, Mr. Trial Examiner, has been identified as R-203.

Q. (By Mr. Prael) I will show you a document which has been identified as R-203, which is on the letterhead of international Paper Company, Long-Bell Division, Longview, Washington, dated April 19, 1963, and I ask you if you recognize the signature on that.

A. Yes, I do.

Q. Whose signature is that?

A. H. J. Greeley.

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[Tr. 546] Q. (By Mr. Prael) This document is a letter of two pages on the letterhead of Rayonier Incorporated, dated April 22, 1963. Mr. Wyatt, do you recognize the signature on that letter?

A. Yes.

Q. Whose signature is that?

A. Mr. Len Forrest, vice-president of Rayonier Incorporated.

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[Tr. 547] Q. (By Mr. Prael) I show you this letter, which is dated April 19, 1963, addressed to Mr. Harvey R. Nelson of the IWA, and I ask you if you recognize the signature on that letter, Mr. Wyatt.

A. Yes.

Q. Whose signature is that?

A. Mr. Mike Roberts.

Q. Who is that?

A. Regional industrial relations manager for St. Regis Paper Company.

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[Tr. 549] Q. (By Mr. Prael) I will show you R-98, the letter addressed to International Woodworkers of America and bears the signature over the words "Manager, Northwest Timber Operations". This is on the letterhead of Crown Zellerbach Corporation. Do you recognize the signature?

A. Yes; Mr. Clarence Richen.

Q. Who is he?

A. The Manager of Northwest Timber Operations for Crown Zellerbach Corporation.

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[Tr. 550] Q. (By Mr. Prael) This refers to a meeting with the IWA, a negotiating meeting, arranged by you for negotiations between the Association and IWA on April 24. Did that meeting occur?

A. Yes.

Q. Did you attend that meeting?

A. Yes.

Q. And where was the meeting held?

A. I believe it was in the Masonic Temple, yes, I think it was in the Masonic Temple in Portland.

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[Tr. 551] Q. (By Mr. Prael) Mr. Wyatt, I will show you Respondents' Exhibit No. 206, which is the agreement dated April 22, 1963, and regarding which you have already

testified in identifying the signatures. Will you tell us how these signatures were secured as a matter of mechanics in carrying out the executing the agreement, to the best of your knowledge?

A. Yes. The blank copies, and I believe there were six, were prepared for signature and were in the possession of Mr. Hoffman, Eugene Hoffman of Weyerhaeuser Company. Mr. Hoffman sent them by messenger across the street, approximately a half a block to the St. Regis Paper Company's Western offices.

Q. Is that in Tacoma?

A. That is in Tacoma approximately half a block from Weyerhaeuser's offices. He had them signed by Hr. Haselton. They were returned by messenger to my office where I signed them. They were then transported by Weyerhaeuser Company aircraft to Longview, Washington, where they were picked up by Mr. H. J. Greeley at the airport, who took them to his offices in Long- [Tr. 552] view, where Mr. Harvey Kelsey signed it.

Q. On behalf of International Paper?

A. On behalf of International Paper. Mr. Kelsey then took the six copies, which by that time bore my signature, Mr. Haselton's signature and his signature, personally with him by automobile to Eugene, Oregon, and turned them over to Mr. Marshall Leeper, and Mr. Leeper signed them.

Mr. Leeper then sent them by mail to the offices of Rayonier Incorporated at Hoquiam, Washington, where Mr. Len Forrest signed.

Mr. Forrest turned them over to Mr. Bob Lewis, J. K. Lewis. Mr. Lewis sent them by mail to the offices of Crown Zellerbach in San Francisco, to Mr. Otis Hallin, and it was in San Francisco that Mr. Hallin signed them on receipt of them from Rayonier from Mr. Lewis.

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[Tr. 553] Q. (By Mr. Prael) And they were then distributed one to each company?

A. They were then distributed one to each company upon Mr. Hallin's returning them, returning to Portland.

Mr. Prael: Mr. Byrholdt, you have already, I believe, copies of R-348, this has already been identified. It is a copy of the minutes of meetings between the Association and the IWA on April 24, 1963, April 25, 1963, April 26, 1963, April 29, 1963, and April 30, 1963, consisting all together of 13 pages.

Q. (By Mr. Prael) I will show you R-348 and I ask you if you recognize that, Mr. Wyatt.

Mr. Roll: Do you have extra copies, counsel? Thank you.

A. Yes, I recognize these.

Mr. Prael: Here for your inspection are the originals from the Association files. We would like them returned.

Q. (By Mr. Prael) You are familiar with that document?

A. Yes.

[Tr. 554] Q. What is that?

A. These are minutes of the negotiating meetings held between the Association and the Western States Region negotiating committee of the IWA on April 24, April 25, April 26, April 29, and April 30.

Q. And by whom were they prepared?

A. Mr. E. M. Boddy.

Q. Who is Mr. Boddy?

A. He is representative of Crown Zellerbach and was acting in the capacity of the Secretary of the Association at this time.

Q. Were these prepared pursuant to his duties as secretary of the Association?

A. Yes.

Q. And the original is in the files of the Association, is that correct?

A. I presume it is.

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[Tr. 555] Q. (By Mr. Prael) Do you recall when you first saw these minutes?

A. No, I can't recall with certainty, other than to say it was sometime ago, a matter of, well, let's see, oh, it was

not any more recently than sometime in July or August, Somewhere in this time and it could have been before that.

Q. What year are you talking about?

A. 1963.

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[Tr. 562] Q. (By Mr. Prael) Mr. Wyatt, as I understand it, you have [Tr. 563] already testified that there was a meeting between the Association and the Western States negotiating committee, IWA, in Portland on April 24, 1963. Where was that meeting held, if you recall?

A. I believe it was held in the Masonic Temple in Portland, Oregon.

Q. Do you know which room of the Masonic Temple?

A. No, sir, I could not say.

Q. Were there a series of meetings with the IWA at the Masonic Temple in April of 1963?

A. Yes, sir.

Q. Were they all at the Masonic Temple or were some of the meetings elsewhere?

A. Throughout the months of April and May I do not recall any IWA meeting that was held anywhere else. I believe they were all held there. I think the same goes for later ones, as far as the IWA is concerned.

Q. Who was there on behalf of the Association? Was there a committee?

A. Yes, there was a committee, a representative of—

Q. (Interrupting) Was there a chairman of that committee?

A. Yes.

Q. Who was the chairman?

A. I was.

Q. And you were present?

[Tr. 564] A. Yes, sir.

Q. What other members of the committee were present?

A. My recollection is that Mr. Hallin was present, Crown Zellerbach; Mr. Kelsey of International Paper; Mr. Forrest of Rayonier; Mr. Leeper and/or Mr. Doherty of U.S. Plywood; Mr. John Titcomb of Weyerhaeuser Company; Mr.

Mike Roberts of St. Regis; and a good many other people, a substantial number of additional people representing each company.

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[Tr. 565] Q. How was the Association represented at this meeting, by whom and in what capacity?

A. By a committee composed of the representatives, of a representative from each company who were considered the negotiating committee of the Association and it was understood that each member was free to bring such other advisers or interested in his company that could either lend him assistance or would be of value to them to participate or at least listen in on the negotiations.

Q. I think you described yourself as chairman of that committee?

A. Yes.

Q. During this negotiation of April 24 who was the spokesman for the Association?

A. I was.

Q. Now was the IWA or the Western States Regional Council of IWA represented at this meeting on April 24 at the Masonic Temple in Portland?

A. Yes, they were represented.

Q. And who represented the IWA?

A. Well, the ones that I can remember would be Mr. Harvey Nelson, Mr. James Fadling, Mr. Leonard Palmer, Mr. D. C. Gunvalson, there are lots of other names I can recall. I don't know if they were official representatives or not. They were there.

[Tr. 566] Q. Throughout the meeting who was the spokesman on behalf of IWA?

A. Mr. Nelson.

Q. Mr. Harvey Nelson?

A. Yes.

Q. What time did this meeting begin?

A. It seems to me it was afternoon on that day on the first day because we had an Association meeting in the morning. I can't tell you the exact time.

Q. I will show you a copy of a document that is in evidence, Respondents' Exhibit 284 which is a letter that you wrote on April 12, 1963 to Mr. Hallin and other persons named on there. Reference is made in this letter to a schedule of meetings. This schedule states that it refers to a meeting of 9 a.m., Wednesday, April 24, a meeting of the Association members only; a 2 p.m. meeting with IWA, April 24, at the Masonic Temple, Portland.

A. Yes.

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[Tr. 567] Q. (By Mr. Prael) Again, is this a letter that you wrote on April 12 after talking to Mr. Nelson?

A. Yes.

Q. Does that refresh your recollection as to when the meeting began on April 24 at the Masonic Temple between the committee you have described as representing the Association on the one hand and Mr. Nelson and others who were representing the IWA on the other hand?

A. Yes, it does.

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[Tr. 568] Q. (By Mr. Prael) With your recollection so refreshed can you now testify when the meeting began?

A. Yes, at 2 p.m. on Wednesday, April 24.

Q. Now can you recall how the meeting started, who spoke first and what was said as nearly as you can recollect? If you can give us the exact words please give us the exact words; if not, the exact words, the substance of what was said and who said it.

First, before answering that question, how long did the meeting last, or do you recall?

A. I do not recall, sir, several hours.

Q. Well, begin at the beginning as nearly as you can recollect what was said when the meeting began and who did the speaking.

A. My recollection is that I was the opening speaker and my opening statement, in my opening statement I stated the names of the companies who were members of the As-

sociation, the purpose for which the Association was founded, the authority it had. I referred to letters that had been written by member companies.

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[Tr. 569] Q. (By Mr. Prael) What are the letters you are referring to?

A. I am referring at least to those, to a series of letters, one from each company or each company wrote letters to the union indicating that they had delegated bargaining authority to the Association and they were letters which were placed in evidence here this morning.

[Tr. 570] Q. I will show you Respondents' number 201, 203, 205, 59, 330, and 98, and ask you if these are the letters to which you refer?

A. Yes, those letters that I just had a moment ago are the ones to which I had reference when I mentioned them to Mr. Nelson or commented about them or indicated that they had been sent.

Q. And would you proceed to tell us what happened next as you recall during this meeting?

A. Well, I explained in some detail at the opening of the meeting about who was in the association, the nature of it, its authorities and mentioned again and pointed out that it had been included in the letters that there were certain subjects which we reserved for local company bargaining, individual company bargaining rather than bringing them to the bargaining table, the association bargaining table and stated the reasons why that had been done, our reasons and in general discussed this, the association and its approach. It is my recollection that Mr. Nelson raised the question that sometime in the first meeting, probably shortly after I explained the association, he raised a question as to local openings which were one of the exclusions or one of the suggested exclusions on our part from Association bargaining and said that local openings were not all the same, they seemed to him not to be. First of all, as I recall, he mentioned that St. Regis had opened their local con-
[Tr. 571] tract at some location or other and that certain other openings appeared to him to overlap, openings that

had been made on the association level. An example of this as I recall had to do with our hours of labor opening in which we sought to establish in certain types of operations a rotating or a seven-day shift. Mr. Nelson pointed out that certain local openings went to the same subject and he was concerned about the policies or the possibility of having to bargain the same cabbage twice presuming an agreement at association level he might still find himself in the position of some local area of having to do the same thing all over again and that to him was very undesirable. There was a caucus or two in here some place and after consultation and caucus, I am still in the April 24 meeting, I indicated to Mr. Nelson that we certainly did not intend to renegotiate at the local level anything that had been negotiated and agreed to at the Association level and that if there was a conflict between an opening made by some local union somewhere with a plant of a member company and it did conflict or was the same subject as had been decided at the Association level that the Association bargaining would govern and that it would not be redone at the local level as far as we were concerned. Well, I am not sure it was on the 24th or 25th meeting but we will come to that. Following my explanation that we intended on any issue that might have been opened both locally and the association level that the association settlements or [Tr. 572] agreement would govern any local opening and we would not redo it. Mr. Nelson indicated that he was ready to proceed and go on with the issues between the parties but wanted me to or wanted us to clearly understand that they did not intend to have several bargaining sessions on the same subject with a member company or a member plant and I indicated again that we did not intend to do that. Following this statement as being ready to get on with it and with us, Mr. Nelson then made a statement in explanation of the union openings and desires with respect to this bargaining. He outlined for us in effect the demands or requests of the international or the Western States Regional Negotiating Committee of the Association and he took these item by item or subject by subject and explained them.

Q. Do you recall what some of these items were or all of them?

A. Well, I will try to give some of them. I don't know that it will be all of them but as I recall, they included a request for a three-year contract for some 40 cents per hour in wage increases through the period, an arrangement to provide travel time payment for woods employees or loggers, a top level committee of both union and Association members to study and make recommendations on subjects such as automation and a suggested allowance or additional amount of money that might be applied to skilled classifications, skilled jobs, which jobs might be agreed upon in the bargaining and receipt of additional amounts.

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[Tr. 573] Q. (By Mr. Prael) Some of the documents which have been furnished here refer to bracket adjustments?

A. Yes, that is the same thing, skilled classification, bracket adjustments; it was 40 cents an hour as I recall it, across the board to all employees and was one demand and everybody got that over the three-year period. Then, there was additional amounts—I can't even remember for you at the moment whether this was on cents per hour or per cent. I think it was cents per hour originally, at least cents per hour on the total [Tr. 574] payroll to be applied to certain skilled classifications and we were to agree upon what those classifications were in the course of the bargaining. Now, that brings that to wages, skilled classification, automation committee, travel time for loggers—I may have missed something but that is all I can recall.

Q. Did you after he made that statement of the unions demand on the Association, include these four or five items, whatever it is, did you make a reply or what happened then?

A. I think there was a brief period of questioning as I recall it about what was meant by some of the terms and further explanations of what was intended, what the approach was in the various union demands. I recall then

explaining in similar fashion the openings that had been made by the employers. These were the opening letters which had been sent prior to April first.

Q. May I interrupt; for the purposes of the record, are these the letters which are in evidence? I show you R-197, 198, 199 and R-150. Is that what you refer to?

A. Yes.

Q. Now, would you continue with what you recall happened at this meeting of April 24?

A. Well, at this point in the meeting I believe that I explained those things that the Association was desirous of accomplishing in this negotiation and I explained them to them in some detail what we meant because the words used in the opening were [Tr. 575] not particularly explanatory, it covered the subject matter.

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[Tr. 576] Q. (By Mr. Prael) You were relating the events as you recall now of a meeting between the Association representatives and the IWA representatives on April 24 in Portland. At the time of the recess you were referring to a statement you were making in explanation of—was it the Association openings?

A. Our openings and objectives with respect to the current bargaining. I was explaining it and as I recall I again reiterated at this time that our basic objectives were essentially long-range and that some of our openings were typical of the long-range objectives we had as an association. I enumerated and explained hopefully for the benefit of the union committee what we intended with respect to each of those bits of subject matter.

The first of these I explained was our objective under the opening which we called revisions in the hours of labor. I pointed out there that it was our hope and desire to work out an arrangement whereby operations that lent themselves to continuous operation could be operated continuously and that we could establish a seven-day work week in such operations without the payment of overtime for work performed on Saturday and Sunday, as such. I

pointed out that we recognized that any individual who worked in excess of forty hours would still receive overtime under the Fair Labor Standards Act and we had no intentions of increasing the work week of a given individual [Tr. 577] for operation of the plants at higher percentages of their capacity by working them on seven-day work weeks. I pointed out that our justification was that the costs of development of new facilities, which facilities provide jobs, was getting to the point that it was a narrow type of investment. Let's take for example, if you can only run it five days a week without the payment of penalty time for additional operations, I pointed out that this was not a particularly new arrangement even in this industry in the broadest terms. I pointed out that we already had some particle board plants and hardboard plants, things of this kind, building materials made from pressed wood fibers, that did operate on seven-day schedules with various kinds of arrangements in the industry including arrangements in which overtime was not paid for Saturday and Sundays, as such.

To shorten this I tried to make a case in behalf of the Association for the desirability of establishing such a week without the payment of weekend overtime, as such, which would mean—and I pointed out the employment of another shift of workers in a given plant and admittedly and desirably as a matter of intent we would then be able to operate some twenty shifts a week, three shifts a day, seven days would be twenty-one and one usually off for maintenance purposes. You would get twenty shifts a week instead of fifteen shifts a week. This would enhance the desirability of investments and facilities. [Tr. 578] ties to provide jobs in this industry and to hold the product cost in line and make the product more competitive with substitute materials in the market place.

The second part of that employer objective had to do with the maintenance shifts, shifts for maintenance personnel on other than a straight Monday through Friday work week so that maintenance could be performed or there would be a crew available on week-end periods if

indeed we were to run the mills or the plants on that seven-day shift. I outlined the hours of labor, what we meant by it and why we thought it was good.

We also opened on overtime and I explained that the objective of the Association here was to ask that concerted refusals on the part of employees to work overtime would be considered a violation of the contract. They were not sanctioned and I took some pains to point out that I was talking about just that I was concerned with concerted refusals of groups of people against the working of overtime to gain an objective unrelated to the working of that overtime. To give an example, I wanted to outlaw the crew that says if you don't rehire the man you fired last week we won't work any overtime, in the event overtime would have been desirable. I pointed out that we were not concerned with negating any individual's rights to refuse to work overtime for a reason, if somebody didn't want to work late or Saturday or something [Tr. 579] of this kind, that was not our concern. Our concern was ruling out of concerted refusals by groups of people who, and we had been having trouble among some member companies and plants with groups of people who to gain an objective that was not related to the working of overtime would announce or tell us that they would not work overtime until we did something.

Q. Is that sometimes referred to as partial strikes?

Mr. Roll: I object to that.

Trial Examiner: Yes, I sustain the objection. I can characterize them, too, if they require and characterization.

A. (Continuing) The third subject I explained was our opening on grievance procedure and we had in mind there asking that provisions or understanding be reached in the contracts or contract language be arrived at which would make it clear that an individual should perform on any work assignment during any period that a grievance relative to that work assignment or the pay for that work assignment was being adjudicated or decided. I pointed out that many of us who had been bargaining with these unions over a period of time felt that was implicit in the

contract as it was already in existence with some companies but perhaps not with others. We wanted to reach an agreement and we wanted the contract to show that in the case of the work assignment to an individual if there were to be a grievance or argument over the rate or the propriety of the assignment that the employer had the right to expect the work to be performed while this grievance was being straightened out.

[Tr. 580] Well, I think these were the major points I covered and attempted to explain so that the objectives of the Association in this bargaining were clear. It seems to me that Mr. Nelson asked some questions at that point. Same things he indicated he understood and some things were not clear to him as to what I meant, how far I intended to go, et cetera. He may even have interjected some rebuttal on some of my editorial comments with respect to desirability of some of these items.

I believe he asked me either here, I mean either in this meeting or certainly by the next meeting if I wouldn't prepare on behalf of the Association a statement of these points and what I had said about them in writing so that he could have them for the benefit of his people.

It seems to me he admonished us again before that meeting broke up that he wasn't terribly well satisfied with the situation with respect to local openings and the definition of what was local and what wasn't local and what were we going to bargain here on the Association level and how was he going to be protected from having to do it again. I think the message he relayed there really was we were going to have to talk about this one some more and understand clearly what we are doing with respect to them.

I probably have not covered all of that meeting but I think I have exhausted my recollection.

Q. Did you keep notes during the meeting of April 24, your [Tr. 581] own notes?

A. My only concern is in the use of the word notes. I made memoranda for myself, always have in a bargaining session. They do not purport to set forth everything that is said but are really reminders to me of significant points, things I want to remember, points to which I would like

to reply, just all sorts of doodlings that I use to remind me of subjects I want to cover in caucus or questions I want to ask. Sometimes they are, in effect, notes on what is being said and sometimes they are reminders to myself on what I should say next. But I did keep those, things of this kind, throughout these sessions.

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[Tr. 582] Q. (By Mr. Prael) Do you recall anything else that occurred at the meeting of April 24.

A. No, sir, I can't.

Q. I will show you what has been identified here as R-25, being a number of sheets of paper with handwriting. Is this handwriting yours, Mr. Wyatt?

A. Yes.

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[Tr. 583] Q. (By Mr. Prael) I will show you this bundle of notes now marked R-25. Will you look through and do any of these notes relate to the meeting regarding which you have just been testifying?

A. Yes.

Q. What sheet are you referring to, the sixth sheet?

A. Right, the sixth one.

Q. And the one with the notation——

A. (Interrupting) 4-24.

Q. Now looking at those penciled notes, were they made during that meeting, do you recall? The meeting regarding which you have just been testifying?

A. Yes.

Q. I note the date 4-24 and then underneath that is HEN. What is that?

A. That is a erroneous description of Mr. Nelson's initials. It should have been HRN.

Q. Would you look through the notes. Do they refresh your recollection in respect to any additional matters that were discussed or mentioned at the meeting of April 24 between the Association and IWA?

A. Well, it reminds me that when I spoke earlier about skill classifications or bracket adjustments or extra money for certain skills I said I couldn't remember whether this was suggested in cents per hour or by percentage and I note here that they didn't really name or sum or amount at that time but [Tr. 584] only said to set aside a sum for application and negotiate on not only the jobs but the sum. I think I have testified earlier that there was some figure which I could not remember. The reason I could not remember it is because there wasn't any, apparently.

Mr. Nelson did indicate in this meeting that he understood that we were not bringing a matter of health and welfare to this table but that he did want those who might have health and welfare to discuss this year on their own company basis that he was expecting to establish an employer payment of, according to these notes, \$15 per month per employee as a result of those separate negotiations which would be held in 1963.

That is all that these notes contribute.

Q. That is all you recall occurring on the meeting of April 24?

A. Yes, sir. Well, may I correct that answer only to say that these notes point out a good deal more editorial material in support of the position that all of these points I have not mentioned as to why they wanted it, for example, travel time and the automation committee. When the union spokesman spoke of travel time he gave a lot of reasons of why he wanted it and how important it was and how serious and et cetera. I have not testified to all of the things he said or tried to. I have in here that I did make a note of some of the other things [Tr. 585] he said about it.

Q. You are speaking about Mr. Nelson?

A. Yes.

Q. Is that the Mr. Nelson that is sitting in this courtroom?

A. Yes.

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[Tr. 587] Q. (By Mr. Prael) Before starting on the April 25 meeting there are a couple of other questions I have regarding health and welfare. Were some of the companies

which were members of this Association parties to arrangements for health and welfare? Can you tell us what the situation was so far as IWA was concerned, if you know.

A. Yes, I know that some member companies were participants in a trust arrangement of some years standing for the providing of health and welfare benefits. I believe it was called a Forest Products Industries Trust or that is an approximate name of it. I do know that one or two of our members had covered their health and welfare as participants in that trust. I knew that our company had provided, had bargained and provided health and welfare benefits independently by an insurance plan. There were various arrangements, negotiated arrangements by various of the member companies to provide health and welfare pursuant to their bargaining in the past.

I knew that at least two of them, two of the members really had health and welfare openings or expirations of previous bargaining to 1963 and were due to discuss health and welfare with IWA in 1963.

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[Tr. 592] Q. (By Mr. Prael) Mr. Wyatt, last Friday at the conclusion of the session, you had been testifying regarding collective bargaining between representatives of the Association, of which you were the spokesman, on the one hand, and representatives of the Western States Negotiating Committee, IWA, which Mr. Nelson was the spokesman, on the other hand, which occurred in Portland on April 24, 1963. At the conclusion of that testimony you stated that there was a meeting the next day which would be April 25. Do you recall that meeting?

A. Yes, sir, I recall there was a meeting.

Q. And that also was in Portland, Oregon?

A. Yes, sir.

Q. And at that meeting who represented the Association?

A. I did.

[Tr. 593] Q. Were there other representatives of the Association present?

A. Yes.

Q. How many would you say?

A. Oh, perhaps 25.

Q. And who represented the IWA?

A. Mr. Nelson.

Q. And were there other representatives of the IWA present?

A. Yes, there were.

Q. Approximately how many?

A. Oh, I should think in the neighborhood of 30, or perhaps 35, I am not sure.

Q. Would you relate as best you can what was said at that meeting—how long did that meeting last?

A. I believe this is the meeting that the employers, the Association which I represented, requested a delay, I am not sure whether it was this meeting or the next one. We asked for a delay in the meeting. I think it was this one, and we didn't meet until after noon and perhaps the meeting lasted three, or three to four hours, if I remember the right meeting.

Q. Now, would you tell us what was said during that meeting and summarize the subjects, and if you recall the exact words that were said, please tell us who said them and what the words were? Otherwise, the substance of the discussion and what was said by the various parties, as best you can.

[Tr. 594] A. Well, at the previous meeting we had had a considerable discussion with respect to local openings and how they might be handled, local openings both by local unions and by member plants, and I believe it was at that second meeting that I explained at some length to the union committee that part of the reason for what appeared to be some overlap or confusion in local openings versus Association openings, was the fact that the employers who were members of the Association did not have sufficient time prior to April 1, the deadline for openings, to compare all local employer openings with Association openings and remove any overlap.

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[Tr. 595] A. (Continuing) I, in effect, explained that it would be our objective to avoid such overlap as there was in any future openings or any future bargaining sessions.

It seems to me there was some discussion of the issues that had been discussed the day before. These were the bargaining issues on the table between the parties. I think there was some comments both ways about the economics of the industry, the travel time issue, some explanatory questions and answers relative to both union and Association openings.

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A. (Continuing) I can't be more specific than that now. I don't recall what other subjects were discussed. I recall that we recessed and agreed to meet the next day.

Q. (By Mr. Prael) Did you keep some notes while this meeting was going on?

A. I believe I did, yes, sir.

Q. I will show you a bundle of papers which, copies of which [Tr. 596] were delivered to General Counsel some-time ago. These are the only notes, is that correct?

A. Yes.

Q. They are clipped together but the page I am calling your attention to is 5-25-63.

A. It is 4-25-63.

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Q. (By Mr. Prael) Having referred to the notes which are marked for identification as R-25—

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Q. (By Mr. Prael—continuing) —does that refresh your recollection as to what transpired at this meeting on April 25 between the Association representatives and the IWA represen- [Tr. 597] tatives?

A. Yes, sir.

Q. Would you tell us what happened at that meeting that you have not already told us?

A. One of the prime issues discussed in addition to those I already mentioned was the matter of the automation approach which had been suggested as part of the union's openings and discussions on the previous day. We had a considerable discussion at this point during which the union pointed out that there had been examples of workers displaced by the technological plant or the building of new plants or relocation of plants with minimum consideration for their personal problems so created, and a great deal of work and understanding was needed to take care of the problem that is created when this happens.

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[Tr. 599] Q. (By Mr. Prael) As refreshed by reference to R-25, your notes, have you given us all that you can presently recall about the meeting on April 25?

[Tr. 600] A. Yes, sir.

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Q. (By Mr. Prael) Mr. Wyatt, having referred to R-348, is your memory any further refreshed as to events that occurred at the meeting of April 25 between the Association and IWA?

A. To a small degree, yes.

Q. And can you tell us what was that?

A. In particular it refreshes my recollection to the extent that I did supply to the union at that meeting a written explanation of three of the Association openings. They are the same ones I discussed earlier today.

Q. Having to do with what?

A. With grievances procedure, hours of labor and overtime, and I did hand a written statement to the union at that time explaining in writing those openings. Other than that, in carousal of this document, only emphasis that most of the discussion was really over local openings and appeared to go particularly to the openings of one company—

Q. (Interrupting) Which one?

A. U. S. Plywood.

[Tr. 601] (Continuing)—and wound up with the union urging along with our consideration of some of their openings, urging that we be sure to clarify or make clear any overlap or grey that might exist between openings made by the Association and those made locally.

Q. As refreshed, is that all of the conversation you now recall regarding the meeting of April 25?

A. Yes.

Q. When was the next meeting, if there was a meeting, between the representatives of the Association and representatives of the IWA?

A. The following morning.

Q. And were the two negotiating parties represented by substantially the same people?

A. Substantially so would be my recollection.

Q. Who was the spokesman for the Association at this meeting?

A. I was.

Q. Who was the spokesman for the IWA?

A. Mr. Nelson.

Q. This was the meeting on April 26?

A. Yes.

Q. And how long did that meeting last?

A. It is my recollection that that meeting went substantially through the day with a couple of caucuses and a luncheon break.

[Tr. 602] Q. As nearly as you can recollect, would you tell us the discussion heard at that meeting and what was said between the various parties, as nearly as you can recollect at the present time? Give us the substance of the discussion if you cannot give us the exact words.

A. Well, the primary emphasis of that meeting was given on the question of these local openings and with particular reference to local openings made by U. S. Plywood Company, and we had a very considerable discussion, including my re-iterating that this was, this confusion, if that confusion came about it was as a result of some urgency on the part of Association members to accomplish Association openings by April 1.

We regreted the fact that certain local openings were also made and that in some cases appeared to either overlap or confuse issues and we certainly would make every effort to avoid it and suggested that if there were some issues so cloudy that they confused the bargaining, the parties could always consider bringing those local openings into the Association bargaining and have done with them at the same time, if that would be the union's desire.

I think it was after the luncheon break that day that the union indicated that that might be a pretty good idea to bring in any grey issues and talk about them and have them dispensed with as part of this Association level bargaining. It is my recollection that we caucused with respect to that sug- [Tr. 603] gestion and returned and stated in effect that it was still our desire to negotiate and bargain on pensions, health and welfare, and union security at the level, at the individual company level, with those companies who had such subjects open and before them, but that with respect to local issues, we would be willing, if it was the union's desire, to bring in both the local issues opened by the companies and the local issues opened by the unions and bring in the people that were needed to discuss them intelligently and reach the conclusions as part of that bargaining.

I am not sure whether a caucus intervened but following this exchange of offers to bring grey issues to the Association table, the union advised us that it was their suggestion or they made the suggestion that they really couldn't bring in local issues opened by local unions and bargain them as part of this bargaining which had been part of our suggestion. We said, to repeat, we said let's bring in the employer openings made at the local level and the union openings made at the local level and settle them all and as I recall the union spokesman's response, it was to the effect that they couldn't bargain the local union openings at that level and suggested that we settle all of this matter aside, all of these, any grey issues that might develop and set them aside and get on with the bargaining, get on with the show, in effect, between the Association and the Western Region Negotiating Committee, and if we had anything

[Tr. 604] left at the end and we could reach an agreement on the major issues, and had something left at the end, we could face that when we got to it and reach some conclusion at that time.

Q. Is that all of the discussion or the substance of the discussion of the meeting of April 25 that you recall at the present time?

A. That is the substance of the discussion about——

Q. (Interrupting) April 26.

A. I am speaking of the meeting on the 26th.

That was the substance of the discussion relative to local versus Association openings. I am quite sure that the various economic and other issues that were between the parties, either as a result of Association openings or union openings, were no doubt discussed and debated, perhaps even argued. I can't remember specifically as to which ones of the various union versus Association openings were particularly emphasized at that particular meeting. I rather feel that some others were but the part I recall primarily about that meeting was for the third day a discussion of how are we going to handle local openings, particularly U. S. Plywood's resulting in a suggestion of let's bring them in here and be done and wind up with the suggestion let's set them aside. If there are problems in settling the major issues, we will take them at that time.

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[Tr. 606] Q. (By Mr. Prael) Did you make some notes, and I am referring to R-25, did you make some notes of this meeting on April 26?

A. I am not sure. Apparently I didn't.

Q. I will show you again——

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Q. (By Mr. Prael) I will show you R-348 and ask you if after looking at those minutes your recollection is in any further respect refreshed.

Mr. Wyatt, after having referred to R-348, is your recollection any further refreshed as to what occurred at the meeting of April 26?

A. To the extent that I can be more specific. I referred generally to what happened correctly, now I can be more specific.

Q. Will you please tell us all that you remember.

A. Among the issues, other than the one on local openings in which I stated substantially correctly already, we discussed [Tr. 607] travel time at some length and I called upon other members of the Association negotiating committee and others to comment on travel time from their point of view and Mr. Otis Hallin and Mr. Greeley of International Paper and perhaps one or two others made comments on travel time as they saw it.

I commented that I considered travel time as a most complex subject and a difficult one to write into clear language that did not create inequities in itself and suggested the desirability of a union and Association committee giving the matter considerable study and see if recommendations might be made going to the question of differential in pay for woods employees and expressed some concern about travel time in the form that had been suggested by the union.

I was asked by the union what my comments were relative to the wage proposal as such. I indicated that I considered the wage proposal excessive in every regard; it was not economic, would not be acceptable in any way to the Association. I made another point on travel time which had to do with the belief on my part that the union proposal did not really go to the heart of the question and might leave us having spent considerable additional money and not go to the problem that really both sides were speaking of.

There was further discussion about the Association grievance openings which was the matter of the work performed during the time that a grievance was being settled, and finally—I [Tr. 608] stated correctly, I think, the sequence of discussions about bringing local openings and putting perhaps even particularly U. S. Plywood openings to the bargaining table to be settled at the Association level and looking at this exhibit refreshes me that I did again say that the Association and U. S. Plywood were willing to add these local openings to the Association agenda for

purposes of bargaining them and that the first union response was providing that both the local openings made by the unions and by the employers could be so handled. The unions, in their first response, appeared to agree that this might be a desirable out and finally suggested that they be set aside and one of the reasons given was that they didn't have authority at this Western States Regional Negotiating Committee level to settle all of the local openings made by local unions.

Q. Have you told us all that you can recall about that meeting of April 26?

A. Yes, I have.

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[Tr. 609] Q. (By Mr. Prael) I show you the attachment of this memorandum of IWA, April 29, 1963, and attached to it is the document I just described dated April 25, 1963. Do you recognize that as the proposal made to the IWA on or about perhaps the April 25, 1963, meeting?

A. This appears to be a copy, or nearly a copy, of the written document I handed to the union which I testified to, ex- [Tr. 610] plaining in some written detail the employers' openings on hours of labor, overtime, and grievance procedure. I testified when I was speaking of the April 25 meeting that one of the things that occurred was that I handed the union a written copy of some explanatory material relative to our openings. This document that you handed me appears to be substantially the copy of that.

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[Tr. 611] Q. (By Mr. Prael) The exhibit just received in evidence, that is, R-373, refers to three meetings held this week, or held last week. It states that there are three more meetings scheduled this week. Were more meetings held the following week after the 26th?

A. Could I ask, is the 26th a Friday?

Q. I believe so, yes, that was a Friday.

A. Yes, there were some.

Q. When was the next meeting after the 26th?

A. If the 26th was a Friday——

Trial Examiner (interrupting): It was.

A. All right. It would be Monday, the 29th, when the next meeting was held, the following Monday, as I recall it.

Q. (By Mr. Prael) This meeting was between substantially the same representatives of IWA and substantially the same repre- [Tr. 612] sentatives of the Association, is that correct?

A. Substantially so, to the best of my recollection.

Q. And at that Monday meeting of April 29, 1963, who was the spokesman for IWA?

A. Mr. Nelson.

Q. And who was the spokesman for the Association?

A. I was.

Q. Will you tell us as best you can recollect at the present time, the discussion that went on during the meeting of Monday, April 29, between the Association and IWA? First, how long did the meeting last? I always forget to put that question in soon enough.

A. I believe the meeting of the 29th, I believe this meeting lasted through the day.

Q. Would you state your best recollection as to what occurred at that meeting and give us the exact words if you can recall such words or if not, the substance of what was discussed and what was said to the best of your recollection?

A. Well, these meetings tended to run together. My recollection is that we were, both sides, were concentrating extensively on the issues before them, the issues opened by both parties. We were involved in lengthy, considerable explanation, give and take, it was as was the next meeting to my recollection, a real full-scale thorough discussion, debate, argument, and explanation on travel time, on grievance procedure, on scale adjustments, on consented refusal to work overtime, et cetera.

[Tr. 613] I testify this way because the 29th could have been the day that we concentrated on travel time and the 30th the day we concentrated on grievance procedure, or vice versa.

Q. You had meetings on both the 29th and 30th?

A. Yes, we did, and these were both very considerable discussions, quite apart from procedural matters as to where things were going to be handled, or how they were going to bargain. We were down to talking about things we were going to handle. We had discussed this, but we were through with any of these discussions and were talking about what was on the table, whether it was an offer too much right or wrong, et cetera.

Q. Do you recall any specific proposals were made on any of these issues or counter-proposals, on the 29th I am referring to?

A. I believe we made a proposal for settlement of the issues on the 29th. This could have been the 30th, it could have been both, but before the meeting of the 30th ended we had made at least one, if not two, proposals to settle the issues, these issues, total proposals.

Q. You have referred to another meeting on April 30, was this also between the same parties represented by substantially, as described on the April 29th meeting, the same representatives?

A. Yes, sir, to the best of my recollection.

Q. How long did the April 30 meeting last?

[Tr. 614] A. I don't recall. It might have ended somewhat earlier than the 29th. I am vague on the length of that meeting.

Q. Have you told us the substance, at least, or all you can recollect, of these two meetings, April 29 and April 30, or can you recall any further discussions? The two meetings are confusing in your mind. Can you tell us any more about the two meetings?

A. At least one offer was made by the Association.

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Q. (By Mr. Prael) Was there any proposal involving wages, generally, at either of these meetings?

A. Yes. It is my recollection that we made a wage offer at one or both of these meetings, the meetings of the 29th and 30th.

Q. Do you recall what the offers were?

[Tr. 615] A. Well, this could be off some, but it seems to me that our first offer, the first one made was for 6 cents effective June 1, 1963, 6 cents an hour, and one percent additional the next year and one per cent additional the next year after that. I wouldn't want to be held that that is exactly right, but I believe that was the nature of our first wage proposal.

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Q. (By Mr. Prael) Have you told us all that you presently recollect about those meetings?

A. I am not sure, but there may have been a union proposal made at one of these meetings, at least with respect to hours of labor and perhaps even a more general one.

Q. Do you recall whether or not the employers changed their wage offers during the course of these two meetings on April 29 and 30?

A. As I already said, there may have been two offers made in the two meetings, I mean two offers to the union, total offers made, and if so, then my answer to the last question would be—

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[Tr. 616] Q. (By Mr. Prael) Have you told us all that you can recall presently, either in substance or detail, of what occurred at these meetings of April 29 and 30?

A. Yes, sir, I have.

Q. I will show you again your notes, R-25, and I will ask you did you keep any notes during the course of those meetings. Let's take the meeting of April 29 first.

A. Yes, I did.

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Q. (By Mr. Prael) Mr. Wyatt, having referred to R-25, is your recollection refreshed in any respect regarding the meet- [Tr. 617] ing on April 29, 1963, between the Association and IWA?

A. I didn't finish reviewing R-25 before the recess. You just handed it to me and we recessed.

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Q. (By Mr. Prael) Is your memory refreshed as to that meeting in any respect, Mr. Wyatt?

A. Yes, sir, reading those notes, those are the notes that I was taking while the union was responding to what must have been an offer made by us prior to the time I began taking notes on the 29th. Those notes don't contain anything about the proposal that we made, apparently because I was talking and not writing, but from those notes I can tell that a proposal had been made by the Association and that various elements of that proposal were discussed by the union in response to that proposal. So, from that I conclude that an offer was made by the Association earlier that day.

Q. Now, as so refreshed, is that all the further detail that you can give us regarding the meeting of April 29th?

A. I can tell from those notes an additional detail as to what the union thought of certain of our proposals and what they had to say about them.

Q. Would you tell us?

A. Yes. First of all the union did respond as I guess I [Tr. 618] speculated earlier, but I would say now that my recollection is that they did respond to hours of labor for our seven-day a week proposal by saying that they were prepared to agree to a work formula in seven-day, three-shift operations that might be other than Monday through Friday. They indicated that they wanted two consecutive days off if this were granted, or if this were adopted, although they didn't have to be Saturday and Sunday, and that if the seven-day, three-shift operation were discontinued by the employer that they would revert to a Monday through Friday shift.

On grievance procedure the union replied that they were quite unwilling to adopt anything like the language of the employer opening with respect to employees working while a grievance was adjudicated over that work. They didn't see that the contract should be changed or altered as a result of overall bargaining because there may have been an isolated local problem or two and they rejected it.

They indicated on our concerted refusal to work overtime opening that they were again unwilling to make any changes

here to indicate that there could be any language in the contract which would restrict an individual's right to refuse to work overtime and that that would have to be, that they couldn't see their way clear to come along with that.

On our proposal on wages their general indication was far too little, that the second year and third year were not nearly [Tr. 619] enough and they didn't want to abandon those second and third years, they would rather take a chance. I believe it was said they preferred to bargain every year than to settle three years if there would only be one per cent the second and third year.

The first year was extremely important but the figure suggested by the Association was not nearly enough. There was also a comment that we had taken a double or dual approach to the skill classification matter.

While my notes don't show the proposal there, it does refresh my recollection that our first proposal, the first one we made and that would have been from those notes early in the day or at the early part of the meeting of April 29, that that proposal went 6 cents effective June 1, 1963, to all employees; one per cent effective—one per cent on the total payroll—effective June 1, 1964; and one per cent effective June 1, 1965. The comment made back by the union relative to taking a double approach to the skill classifications had reference to that part of our wage proposal which said that on rates of pay which were currently some 35 cents an hour above the base rate, first of all, 6 cents across the board, then if the current rate of an individual was 35 cents above the base rate his increase would be 7 cents, then one per cent, one per cent, if it was 52—I don't know if it was 52—at any rate, another level of wages above the base rate.

We suggested eight cents effective June 1, one per cent, [Tr. 620] one per cent, and the union comment on the double bite was that we were differentiating in terms of cents per hour by the difference between 6 and 7 and 6 and 8, and we were also applying percentages in the second two years which would operate again one per cent at a higher rate as more cents per hour and more cents per lower rate that they were taking a both graduated cents per hour ap-

proach and a percentage approach and they objected, in effect, that let's go one way or the other, let's don't incorporate both.

So it was too little in the first year and too little in the second and third year was their comment on wages. They pointed out in their earning statements of certain companies as justifying higher levels of change, higher levels of increase at this time, indicated that they felt the unions were making an approach of stability of bargaining in relationship in the industry by going for a three-year contract, but if we wouldn't be willing to go for a three-year contract and that would be all right with them, if we couldn't come up with more money in the pot.

I commented on hours of labor, overtime, and grievance procedure. Then they pointed out that we had not mentioned in our proposal the matter of travel time for employees and the matter of automation and re-iterated their argument about the need and desirability, if not the necessity, of coming to grips with both of those problems.

[Tr. 621] They pointed to other bargaining activities elsewhere in the industry, speaking of some settlements, speaking of them and quoted on the order of 7½ cents to 15 cents being made by other operators elsewhere in the industry and pointed out that they were below that and yet some such settlements had been made.

Q. Does that conclude what you can recall now of the meeting of April 29, 1963?

A. Yes, sir.

Q. During that meeting on the 29th, was Mr. Nelson still the spokesman for IWA or did anyone else speak on behalf of the union that you can recall?

A. I recall Mr. Nelson was the spokesman. Whether anyone else spoke, I can't recall. Mr. Nelson was the chief spokesman.

Q. I will show you R-348 in reference to notes under the date of April 29, 1963, and ask you if that refreshes your recollection as to any further matters that were discussed and the nature of the discussions at the meeting of April 29, 1963.

After referring to the minutes, which is R-348, and calling your attention to the date of April 29, 1963, do you recall any further occurrences at that meeting that you have been describing?

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[Tr. 622] Q. (By Mr. Prael) Do you have the question now in mind?

A. Yes. It fills in some gaps and could be considered as corroborating some things that I have already said and adds a [Tr. 623] few.

Q. Would you tell us, then, what you recall further about the meeting of April 29, 1963?

A. It establishes that the Association did make an offer to settle between the union and the Association at the early part of that meeting, and that we, that I did make the offer on behalf of the Association. It corroborates further—not quite exactly, but it comes close to corroborating on what I said the offer was on wages.

It refreshes my recollection to the extent that the offer was 6 cents, one per cent, one per cent, for three years. I said 35 cents above the base rate, we went to another rate, actually, and 348 refreshes my recollection that that was 31½ cents and not 35 cents.

We went to seven, one and one, and at 52 cents above the base rate we went to eight, one and one. In commenting—and the balance of the offer was to include the employer openings which had already been made, were made a part of that offer. In commenting on that offer, I indicated that the union should bear in mind that on the wage part of it, that from the standpoint of cost there was some 20 to 25 per cent additional cost involved in the fringe benefits which would automatically increase the cost when wages are increased, so that the total package in cost to the employers, I commented, was something over five million dollars plus these fringe elements, which would automatically go up.

I recall that, with the aid of these minutes, that the union caucused during the morning on our offer and returned

before lunch and made the response to which I have already testified, the response to our openings, their comments as to our wage package, and so on, occurred in the morning.

I recall making the comment that I was disappointed that any offer of the magnitude of the one that we had made received apparently such short consideration on being denied. We did have a lunch break and I did go over the points once more, really in response to the union's response, and I emphasized in particular their comments with respect to hours of labor.

As I have already testified, they indicated the possibility of something other than a five-day, Monday-through-Friday work week under certain conditions. They indicated that they wanted the paid-month period in the event we went to a three-shift, seven-day operation, and in my response—they expressed a gratification that we were making some progress in that direction—although I noted that their proposal included the sixth day of the work week as an overtime day and that we would be willing to consider lunch periods paid for on a three-shift, seven-day operation.

I commented that on the matter of grievance procedure that this was really the only place and the proper place to go to solve that problem when it became a general course of grievances [Tr. 625] around the industry. On concerted refusal to work overtime, I pointed out in response to the union's response, I already said, they indicated they were not going to be for the contract language to circumvent the right of the individual to work overtime and I pointed out that was not our intention, that any contract language that would preserve the right of the individual would cooperate to preserve, that we were bothered with concerted, by groups of employees, concerted efforts to retain bargaining unrelated to the working of overtime.

On automation I pointed out again that these companies that had formed this Association were actually providing more equipment currently than had been employed some years in the past. We didn't consider ourselves, as such, to be the cause of unemployment or displacement problems in the industry, which was one reason for our mentioning an automation approach in our proposal. The other reason

was, and I stated quite frankly, in view of the union's attitude relative to our grievance procedure and overtime suggestions which we considered substantial problems, we were not too interested in setting up committees to come to a problem of automation unless we could look at the problems from both sides, we had some and they had some.

Following my response to the union's response, I recall that Mr. Nelson, representing the Western States Regional Negotiating Committee, made a response to my response to his response. It came back again and made some further comment em- [Tr. 626] phasizing travel time and the fact we had not come to grips with it and must necessarily do so and pointed out that there had been cases in the industry and within the membership of the Association that operations had been discontinued or moved substantial distances and people had been dismissed without much more than a thank you and that something had to be done with respect to the problem it creates for these people when this is done.

He indicated that the sixth day of the work week would have to operate as an overtime day in any agreement on their part to come to grips with a seven-day, three-shift operation. He pointed out, in answer to my comment about the rather short time required to examine a proposal of this magnitude, he said he didn't want to indicate that the union had given it a very light touch but rather to point out that they were somewhat prepared in their own minds to the kind of things that were going to be required and it didn't require a great amount of time to establish the fact that our proposal didn't fit their objectives.

He did not depreciate our offer, it didn't come up to what they required. And he commented with the fact, about the only way, if this is what we were saying was the right answer to everything before the parties, that we must be intending to negotiate to a strike situation because that was what would certainly occur and he pointed out that in 1962 the International Woodworkers had passed up a wage increase, or at least a dis- [Tr. 627] continued bargaining without receiving a wage increase in '62, and they felt that really one might well have been justified in retro-

spect, but if we were going to ignore the fact that the union passed it up in 1962 and come in with the offer as we had, that we must have been intending to negotiate for a strike and if we were, we probably could be accommodated in that regard. My reply to that by saying that the last thing we had in mind was to negotiate for a strike and we were here to settle the issues. We made suggestions and we had problems along with their problems, and we were still there bargaining and intended to be there and intended to continue to try to find solutions to the things that were by then thoroughly aired between us as a result of several run-throughs, point by point.

Q. Does that conclude all that you can recall about this meeting on April 29, 1963, between the various representatives of the Association and the various representatives of the IWA?

A. Yes, I believe it does.

Q. There was a meeting on the following day?

A. Yes, there was.

Q. And that was April 30. I recall earlier in testifying you could not differentiate, at least prior to the time you refreshed your recollection, between the meeting of April 29 and the meeting of April 30. Could you tell us at this time what occurred at the meeting on April 30 without further refreshment of your recollection? First, do you recall how long the meeting of April 30 [Tr. 628] lasted?

A. I believe that was a shorter meeting.

Q. Than the April 29 meeting?

A. Than the April 29 meeting.

Q. Who was the spokesman at the meeting on April 30, was Mr. Nelson spokesman for the IWA?

A. Yes, sir.

Q. And the other representatives of IWA were present as before?

A. Substantially so.

Q. And you were the spokesman for the Association?

A. Yes, I was.

Q. And other representatives of the Association were present?

A. Yes, they were.

Q. Can you tell us whether any further offers were made or discussed at the April 30 meeting that you have not already related to us?

A. I believe that the Association made another offer on April 30.

Q. Do you recall what that offer was? Was it different from the offer made on April 29?

A. Yes, it was different than that.

Q. In what respect?

A. About all that I can recall is that on June 1, 1963, a portion of the wage offer, it seems to me we went up from the [Tr. 629] previous 6 cents to 7½ cents. I could be off but I think that is right. I believe we increased our offer in the third year above the one per cent and I cannot recall how much, if indeed I am right in saying that, but we went up, we went up in the first and third years, as I recall, and I believe it was 7½ cents in the first year and something over the one per cent in the third year.

Q. Do you recall anything further that was discussed at the April 30 meeting?

A. Oh, that was the prime thing that took place. It was discussed, I am sure, back and forth again as to the elements of the offer and the union's attitude towards it and asserting the serious necessity of it on my part.

Q. Do you recall any counter-proposal was made by the union in that meeting on wages particularly?

A. No, sir, I don't recall. I can't recall whether they countered at that time or not.

Q. Have you told us all that you can recollect at the present time as to the occurrences of the meeting on April 30 between the Association and the IWA?

A. Yes, I have.

Q. I will show you again R-25, the notes—did you make some notes of the meeting of April 30, 1963, which you are testifying too?

[Tr. 630] A. Yes.

Q. Would it help your recollection to refer to such notes?

A. Yes.

Q. Would you please do so.

A. There is an awful lot of undated papers here. I don't know if they relate to the notes or not.

Q. Looking at the notes, that is, R-25, do you recall anything further of the meeting of April 30, 1963?

A. Yes.

Q. Would you tell us what the events were?

A. Yes. It refreshes my recollection as I indicated just before I read those notes, that we did make our second proposal on April 30.

Q. Do you recall what the proposal was? You stated it in certain respects?

A. Yes, sir.

Q. In respect to wages—

A. (Interrupting) In wages I was close in what I said before. We did go to 7½ cents on 6-1-63; one per cent on 6-1-64; and one and one half per cent on 6-1-65, so we did increase the first and the third years by 1½ cents per hour on 6-1-63 and by one half per cent on 6-1-65.

We suggested a one cent per hour kitty on the total payroll be accumulated for purposes of the skill adjustments and then leaving it to the local union and management to take what, [Tr. 631] the amount of money yielded at one per cent of the total payroll and apply it to those rates that were more than 35 cents above the base and if they got into a squabble of how it should be applied or who should apply it, that the top committee of the Association and the union would settle the argument, but we suggested accumulating the one cent kitty for that purpose.

We indicated that on hours of labor, we appreciated the fact that they felt we were making some progress and we seemed to be in an area that we could work it out and the primary requirement remaining was the question of overtime for the sixth day in the week as such, we still didn't want the sixth day in the week to be an overtime day and that our proposal together with the wages that I just outlined, that our proposal would continue to ask for relief on overtime on the sixth day of the work week.

On the concerted refusal to work overtime we restated, in effect, what it was that we were intending to accomplish and said, in effect, to the union that they could word the

language any way they wanted to word it but we wanted something to protect us against groups of people refusing to work overtime on a concerted basis to gain a bargaining objective unrelated to the working of that overtime and they were free to work it out, languagewise, any way they wanted to.

On the matter of grievance procedure or performing work during the time of a grievance settlement, we said the same [Tr. 632] thing, we were trying to establish a provision that would make it clear and we hoped that these contracts already provided that an individual should perform his work assignment while a grievance was being adjudicated but that is what we wanted to accomplish and they could word it however they liked, that is what we wanted the result to be together with the wages.

I think that was the substance of the offer. There was a recess taken, or a caucus, or perhaps it was a luncheon break, after which the union advised us, commented on our offer, primarily, to the fact that we, while they noted we had made some movement, we had not gotten into the area of settlement and we were still short on the wages and there had been no travel time or automation solutions mentioned in our offer and certainly would have to come to grips with that and my notes showed that the union spokesman laid some emphasis on travel time and pointed out that the union had not asked for any specific formula or any specific marshalling points or methods of calculating but that this was a problem and a real problem and an answer had to come as a result of these negotiations, some kind of an answer, or solution, had to come out and we couldn't conclude these negotiations until that had occurred.

Q. Did the union have any wage proposal or daily wage petition?

A. Yes, they did. After commenting on our proposals negatively, the union did make——

Trial Examiner (interrupting): Are you talking about the [Tr. 633] wage proposal?

The Witness: Our total proposal.

A. (Continuing) After commenting on our total proposal, our second proposal, the union spokesman on behalf of the Western States Regional Council, did make a counter-proposal on wages.

Q. (By Mr. Prael) What was that?

A. That was 15 cents per hour to all employees across the Board, effective June 1, 1963, 51 cents per hour to all employees effective either 12-1-63 or 12-31-63, I don't recall which, but in December an additional 51 cents across the board, and on 6-1-64 10 cents an hour across the board and on 6-1-65 another 10 cents an hour across the board.

Q. Did you comment on the union's wage proposal at that meeting?

A. I am sure I must have commented but at the moment I cannot recollect what I might have said.

Q. And have you stated all that you can recall about the event, or the occurrences in the meeting of April 30, 1963?

A. There is one other thing. I forgot this. In the meeting of the 29th, also, but about the element of the hours of the labor proposed was a Tuesday-through-Saturday work week for maintenance personnel. This was part of our hours of labor opening. That was included in our proposal of the 29th and it was included in our proposal of the 30th, and was rejected by the union as being unnecessary at the present time, and so on, [Tr. 634] both times. In the list of items in the employer opening, I believe, I overlooked that when I discussed the 29th offer and rejection and the 30th offer and rejection. The Tuesday-through-Saturday work week, which was part of our proposal in order to get maintenance work done at times other than Monday through Friday, was in our proposal both times and rejected both times.

Q. Do you recall anything else of those two meetings?

A. No.

Q. When you adjourned or concluded on May 30, was another meeting set or—

A. (Interrupting) You mean April 30?

Q. April 30, yes.

A. I don't recall. I believe that on April 30, we recessed subject to call without setting a date, but I am not certain on that.

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Q. (By Mr. Prael) Under the date of April 30, 1963, R-348, I will ask you if you would look at that, Mr. Wyatt. Does that refresh your recollection as to any further event that may have occurred at that meeting on April 30, 1963?

After reference to R-348, coming back to the specific question, do you recall now when the negotiating meeting was adjourned if it was adjourned to a specific time or what was [Tr. 635] the result?

A. We adjourned subject to call by either party.

Q. And also, do these minutes or notes refresh your recollection in any other respect regarding the events of the April 30 meeting when the Association and IWA, and if so, in what respect?

A. In replying to our offer, first of all, these minutes refresh my recollection and corroborate what I said about our offer. It appears to be as I said it and also as set forth in my own notes. In replying to the matter of concerted refusal to work overtime, Mr. Nelson pointed out that the union might be willing to develop language that would solve the problem we had raised with respect to concerted refusal to work overtime provided that the employers would accept a similar obligation, in other words, agree not to schedule overtime to accomplish some bargaining purpose and I should perhaps explain that what he meant was to outlaw any practice of working overtime for example to build up inventory at a time that bargaining might be just ahead in order that we would have people working overtime to put us in an inventory position that could withstand later difficulty in some way.

So, what Mr. Nelson, or what I understood him to say, was that they were willing to rule out by contract a provision, rule out the concerted refusal to work overtime by a group of employees but he wanted it also to contain a statement that [Tr. 636] employers would not schedule an overtime to attain some bargaining purpose unrelated to the reason

for working overtime and he also said if there were any contract among Association members which did not contain a guarantee to the individual to refuse to work overtime on an individual basis, that such language should be incorporated in this clause.

I have already testified to most of the rest of this.

Toward the end of the meeting and prior to adjournment, I did indicate that I felt that the positions of the parties were substantially apart. I was concerned and express concern at our inability to get employers together. I felt that the negotiations might be considered to be in some difficulty, that we certainly had to do our homework and work hard to settle the matters at that table and avoid a catastrophic event in the industry which it could ill afford and I said I realized that the union and the Association were both sincere in the effort but we just plain had to do it and it didn't look terribly hopeful but that is what we had to do.

Mr. Nelson pointed to some first-quarter reports of member companies of the Association, including Weyerhaeuser, indicating that they had had a satisfactory first quarter and certainly needed to look at their whole cart and stub of their check book a little harder in view of the first quarter, and I pointed out when comparing Weyerhaeuser's quarter of '63 and '62, he was comparing '63 with the lowest quarter of the company's history [Tr. 637] as far as earnings were concerned.

I did testify that the travel time issue was stated by the union as requiring settlement as part of this thing, and the union's proposal to us I have already stated was 15 cents on 6-1-63 and 1 cent in December and then 2 cents on 1-1-64 and 1-1-65, and there was also a one per cent bracket adjustment, skill classification kitty suggested by the union to begin being accumulated on 6-1-63. Our proposal had been one cent and their proposal was one per cent. That was part of the union counter-proposal.

Q. Does that cover all that you recall of the discussions that went on at the meeting between the Association representatives and the IWA representatives on April 30, 1963?

A. Yes, I believe it does.

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[Tr. 639] Q. (By Mr. Prael) Mr. Wyatt, I neglected to ask you something [Tr. 640] further about the date April 29.

You testified regarding meetings held between the committees representing respectively the IWA and the Association on April 29 and April 30. Following, was there more than one meeting on April 29 in which you and Mr. Nelson participated?

A. I am not sure whether you would call it a meeting. I had a conversation with Mr. Nelson later in the day on the 29th.

Q. Was this after the conclusion of the bargaining session which you have described?

A. Yes.

Q. And about what time of the day was this further meeting?

A. Oh, 4:30 or 5 o'clock in the afternoon, perhaps.

Q. And where was this further discussion?

A. It was in Portland at the Sheraton Hotel.

Q. Who was present besides yourself?

A. Mr. Gundvalson.

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Q. (By Mr. Prael) Yourself, Mr. Nelson, and Mr. Gundvalson?

A. Mr. Scott Witt, Labor Relations Manager of Weyerhaeuser Company.

[Tr. 641] Q. How long did this discussion or conversation last?

A. Oh, perhaps 45 minutes to an hour.

Q. Can you relate for us the subject of that discussion, either in detail or in substance?

A. Oh, in substance we simply discussed bargaining positions of the Association and the union as it stood then and I had requested the opportunity to have this conversation and in seeking solutions we discussed the travel time issue and hours of labor issue and particularly the wage issue, with particular reference, as I recall, to the second and third years.

It was not an unusual bargaining effort to find out if there was common ground that might be explored in the hope that in subsequent meetings we could put the factors together. We were, as I recall the major issues that I wanted to discuss in this type of conversation and which we were concerned, I think I was talking about the wage situation and the union was commenting on it and the hours of labor issue and the additional pay for loggers, so-called travel time issue.

Q. And have you related to us all that you recall about the substance and details of that conversation?

A. That was the substance and I don't recall any detail.

Q. Do you recall when—the evidence shows now that the meeting of April 30 was adjourned subject to call, that is, without further date?

A. Yes.

[Tr. 642] Q. Were there further meetings between the Association and IWA?

A. Yes, there were.

Q. Do you recall when the next meeting took place?

A. I think it was May 27, but I am not sure. I think it was May 27, the next one.

Q. At this meeting on May 27, was the Association represented by yourself and substantially the same other representatives as before in the earlier meetings in April to which you have testified?

A. Yes.

Q. Was the IWA represented by Mr. Nelson and others as you have testified in relation to the April meetings?

A. Yes.

Q. During that time of April was there more than one meeting between the Association and the IWA?

A. During the time of April, you say?

Q. Well, during the latter part of May?

A. Yes, there were, there was more than one meeting.

Q. Do you have those meetings distinctly in mind?

A. Well, if the 27th is the correct date for the first meeting, then I think we met on the 28th. Then I think we met on the 30th or 31st, and then on June 4.

Q. Now, taking the first meeting, the meeting of May 27, 1963, can you tell us as near as you can what happened

at that meeting and if you could give us the words that were spoken, please [Tr. 643] do so, but if not, the substance of the matters discussed, the substance of the discussion of the persons at the meetings, referring to the meeting of May 27, 1963.

A. Well, it seems to me that we opened by each reviewing our positions as they had been on April 30 at the time of adjournment, and discussing the fact that we were not together.

By this time I think our issue of hours of labor or the seven-day week, had in my judgment at least, been somewhat exaggerated and over-emphasized and misinterpreted by the field. By the field I mean in the general Northwest area surrounding our plant, among our people.

It seems to me we had a discussion on that subject, as to which issues, again, received emphasis at that first meeting as opposed to the other ones of those four meetings, three or four meetings, I can't recall specifically which item received the bulk of attention on the 27th as opposed to the 28th, or the other days.

It was a bargaining session. We were concentrating on the issues, we were concerned about the difficulty we were having, the differences we were apart, primarily in wages, but also on the hours of labor question and the woods travel time question and the overtime question, and so on.

These were matters of great concern. We were putting forth our major effort making our arguments and our discussions toward resolving those differences and I think there was some pretty [Tr. 644] extended discussions and some fairly warm argument, perhaps, on the validity of our various positions on these items.

I can't be any more specific than that. I am sure this was the general subject matter of the meeting.

Q. How long did that meeting last, do you recall?

A. I don't recall.

Q. I am referring you to R-25, your notes. Are there any notes in this exhibit which refresh your recollection as to the events of the meeting of May 27, 1963, between the Association and the IWA?

A. No, there does not appear to be.

Q. There are no notes there?

A. Not labeled as such, no, sir.

Q. I am referring you to R-25, your notes. Are there any been marked for identification in this proceeding and I am referring you to the material under the date of May 27, 1963, and ask you if that refreshes your recollection in any respect as to the discussions and matters that were discussed at the May 27, 1963, meeting.

Referring to your examination of R-349, does that refresh your recollection in any respect as to the occurrences and events at the meeting of May 27, 1963?

A. Yes.

Q. Could you tell us what your recollection now is, being so refreshed regarding the events of the meeting of May 27, 1963?

[Tr. 645] A. First, it refreshes my recollection to the extent that the meeting was on May 27. I correctly stated before that the meeting did open with an exchange of assessments of positions and some criticism by both the union of the employer's position, and by the Association, by myself, of the union position, as the matter stood at that time.

The union advised us that, or I made the comment that I presumed from what the union spokesman had said, that they had no change of position to offer or to suggest at that time and we went on to say that if that were the case then the Association did not have one to suggest either. I went on to say that in my bargaining experience a difference between us of the magnitude that appeared to be the case here, coupled with the affirmative statement that there was no change of position to come forward on the union's part, was not a good time to make additional offers on behalf of the Association and that regrettably enough we did seem to be stalemated with a gulf between us of such size that it wasn't going to be a good time to make additional offers on behalf of the Association.

Mr. Nelson, the union spokesman, then indicated that if we were saying that this was the final offer for the Association, then we could only be interested in having a shutdown or a strike and if it was our final offer and that is what we were saying, he felt that the union could accommodate us and that certainly is quite definitely what would occur.

[Tr. 646] He said that sometimes we can find the answer better in a strike, that we ought, that these companies ought to come do a better job of soul searching and offering and find the answer here at the bargaining table, but if the answer had to be found during the strike then maybe that was a better time to do it and we better try to find it during a strike and I replied that again I wanted to state that we were not in this session bargaining for a strike and did not want it, did not consider it the right answer for either the employees represented by the union or by any of our companies.

Mr. Nelson indicated that this had been something they had gone through in 1954, as I recall, which was before my time in this industry, but I replied that this was not 1954 nor was the industry in that kind of a position, and that one of the very real reasons for forming this Association in the first place was to make a strike an outmoded thing, that it was not economic for the industry in any way, shape or form, quite apart from the loss of wages that accrue to individuals and the loss of profits and the loss of overhead on the part of the companies.

It was also outmoded because of the loss of markets, both to competitors inside and outside the lumber industry, that we certainly, the last thing on our minds was to have a strike and the first objective we had was to avoid it within the economical limits that we could accept.

I believe there was a caucus following this exchange of [Tr. 647] view about the consequences of remaining where we were. By that I mean maintaining our present positions without change, and following this, the union indicated that in view of our discussion prior to the caucus that they would suggest a change of position and they returned to a one-year approach and said they would drop their three-year request and suggest that we seek a one-year settlement.

They did suggest a one-year settlement which, as best I can recall, was, I think, the straight per-hour wage increase remained at 15 cents and they suggested a 5 per cent skill adjustment kitty and a solution for travel time had to be found, 15 cents, 5 per cent, and travel time solution on a one-year basis, and I inquired as to the reason for the change

from three-years to one year and the answer was that we simply hadn't put a sufficient amount of money in the second and third years and they went on to state that they considered our one per cent and one and one half per cent as an insult to believe that they would close a contract for the second and third year for that.

I reminded them that we had certainly, in our objective to avoid difficulty, had not intended to insult anybody and certainly not with an offer that involved the number of dollars that was involved in this particular offer, which was before them. But that I felt our objective was to find a common ground to settle and that it was my theory that there wasn't any such thing as [Tr. 648] an insincere offer in the course of bargaining.

In my experience there is always the last offer, finally, or the one that is finally settled on, is not necessarily the only one that is sincerely made any more than the union's opening demands could be labeled as insincere.

They are simply bargaining positions in an attempt to approach the common ground on which settlement is to be made and that is what we had not yet done. The fact that we hadn't done that, that the position that we departed was insincere or was intended to insult them. I believe on behalf of the Association that I indicated that their one-year approach of 15 cents, well no, I don't think I did either—I think the last in that meeting was that I asked again the exact position of the union for purposes of clarification and purposes of our studying it during any recess that might take place between then and the next meeting, and sort of restated it to see if I was correct, as I remember.

Mr. Roll: If the Examiner please, I object to that answer as not responsive and move that it be stricken for the reason that the witness himself concedes that this is now what he was thinking and he doesn't claim that is what occurred.

Trial Examiner: I believe he used the word "restated". I think it is more than just thought. I will deny the motion.

A. (Continuing) I discussed with the union as to if my concept of their position was correct. I said, "As I under-

stand [Tr. 649] you your one-year decision is 15 cents an hour across the board and 5 per cent kitty and a solution of travel time, something of this order", and I got the affirmative reply. I may have restated that a little wrong, but in essence I restated it and the union said yes. That is the best that I can recall of that meeting.

Q. (By Mr. Prael) Have you stated all that you can recall regarding that meeting?

A. That is all that I can recall.

.

[Tr. 653] Q. (By Mr. Prael) I think, Mr. Watt, you testified when you were examined a few moments ago, that there was a meeting not only on May 27 but the following day, is that correct?

A. Yes, there was one the following day.

Q. And this would be May 28, 1963?

A. Yes.

Q. And again, was this a meeting between the IWA with its spokesman Mr. Nelson, accompanied by certain other representatives of the IWA, and on the other hand, the Association with you as the Association spokesman, accompanied by certain other [Tr. 654] representatives of the Association?

A. Yes, sir.

Q. The group was similar as in the previous meeting as far as you can recall?

A. Substantially so, yes.

Q. Would you tell us as best you can recall, the discussions had and the occurrences at this meeting of May 28, 1963, between the Association and the IWA?

A. I don't like to keep repeating the same, but we were still talking about the same issues. We were arguing, debating the matter of change of position.

On the 28th I am virtually certain that we indicated that their one-year proposal as had been made the day before was not acceptable to the Association and I think there was some, no doubt some more conversation about the position that left us in, and it is my recollection that it was that meeting

of the 28th that the Association made another offer and by offer again I mean an offer to settle all of the issues, an offer of settlement to dispose of the matters before us.

It included wages and other items. We made an offer on the 28th, I am sure of that.

Q. Do you recall what that offer was, any of the details of that offer, at the present time?

A. Well, I would like an opportunity to correct this if I miss the details, but I think that first, the '63 portion of [Tr. 655] that offer went to about 8 cents an hour, approximately. The second year portion or the 6-1-64 portion went to about a per cent and a half and the June 1, 1965 portion went to about two per cent, give or take a half a cent or quarter of a per cent somewhere, I think that was the wage portion of it.

We, at this time, I believe is when we suggested a two cent per hour skill adjustment or bracket kitty.

Q. Was this the matter that the company had offered one per cent and the union——

A. (Interrupting) They had demanded a one per cent at the time they were discussing a three-year contract, when we went to one-year, I think they came up with five per cent.

Q. Five per cent or five cents?

A. I think they came up with five per cent on the one-year package. It was the amount of money calculated on the total payroll of any given plant or unit to be applied to certain skill classifications which might be defined various ways.

Maybe it was another meeting when we did go to two cents. We did go to two cents in our proposal. I believe it was in this meeting, I think, we went to eight cents, one and one half, and two per cent, and at a two cent skill adjustment bracket fund.

Q. Do you recall whether the union made a counter-offer or accepted or rejected any part of that?

A. Well, sir, I——

[Tr. 656] Q. At this May 28, 1963 meeting that we are talking about?

A. Until you pinned it down to the 28th meeting, I was going to answer it.

Q. Well, I am trying to take it up meeting by meeting.

A. I understand. I don't know, it was rejected ultimately. Whether it got rejected before the end of the meeting on the 28th or not, I cannot recall. It was, that offer was rejected by the unions.

Q. Either at that meeting or subsequent meetings, I take it?

A. We were down to the point that it wasn't taking quite so long to go through these processes. Most of the speech-making had been done. I would be inclined to suspect that it was probably rejected before we got out of there on the 28th, but it might not have been.

Q. Now, have you told us all that you can recall from your memory at this time of the negotiating meeting held on May 28, 1963 between the Association and the IWA?

A. Yes, I hope I have done that correctly.

Q. Are there any notes in R-25 that would refresh your recollection on that?

A. I don't think so—5/28?

Q. 5/28.

A. No.

Q. I will show you R-349, calling your attention to the material under the day of May 28, 1963, and ask if this refreshes your recollection in any respect regarding that [Tr. 657] meeting? Does reference to R-349 refresh your recollection as to further events or discussions that might have been had during the meeting of May 28, 1963, between the Association and IWA?

A. Yes.

Q. Would you please tell us what you recall at the present time regarding that, in addition to what you already told us?

A. First, I was essentially correct in my previous testimony on the offer made by the Association that day. We did make one. It was eight cents an hour across the board effective June 1st, 1963, one and one-half per cent of the then existing wage rate to be effective on June 1, 1964, and two per cent to be effective on June 1, 1965. In my previous testimony I said a two cents bracket adjustment was suggested. What we actually suggested was that they, we

would be prepared to supply the union with a list of the specific jobs at each plant that would receive a skill adjustment and the amount of that adjustment. In other words, opposed to discussing the kitty to be later negotiated locally as we had previously been suggesting, we now said we will hand you a list of the jobs themselves and the amount of the increase on each job and when calculated and compared to the total payrolls of the companies, it would approximate two cents an hour on the total payroll. It would be fifteen cents to this job and three cents to this job and something more to the other job and we would give them the list [Tr. 658] and it would add up to approximately two cents on the total payroll of all of the companies. That was our wage offer and we also perpetuated our, or continued our position with respect to our employer opening. We said that they remained as part, in effect, package proposal that we were making, that would be the hours of labor, the grievance procedure and the overtime.

Do you want me to go on with the meeting?

Q. Yes.

A. Mr. Nelson replied that he was glad to see us stay with the three year approach, that they really thought it was better.

He was not commenting that the offer was adequate in those '64 or '65 years, but at least it remained on a three-year type structure; that he was in agreement in principle with the proposal on bracket adjustments that we had made; that the idea of submitting a list of the jobs with the increase for each job he considered to be desirable; that he would like, he requested that he also be supplied with the number of incumbents in each job at the same time we gave the job title, the amount of increase for that job. He wanted to know how many people were in that job obviously for the purposes of calculating, meeting the two cent average across the payroll.

He commented that travel time for woods employees was still absent—

Q. (Interrupting) Was still absent?

[Tr. 659] A. Was not in our offer.

Q. The Association made no offer on the travel time?

A. Right, and he referred back in his prior conversation, that an answer to this subject must necessarily be found in order to conclude the negotiations and he made a similar comment with respect to the automation committee and said—not automation committee, but the automation problem and we had suggested no formula for coming to grips with it.

Then a counter proposal was made by the union in the May 28 meeting before it concluded.

Q. Do you recall what that counter proposal consisted of, the details of it or any of the aspects of it?

A. Yes, parts of it. I should say that I think, my recollection is that the minutes to which I just referred are in error in at least one respect in respect to the union proposal, but I will come to that. This was the time that the union suggested a woods travel time formula and that formula, as I recall it, was that in each woods operation we would agree on a specific point, a marshalling point, a place from which we would say that work began. This could be up in the points or headquarters camp or pickup point of a crew bus but, anyway, we would agree on pickup points and we would compensate employees for all time spent beyond ten hours from that pickup point to return to that pickup point and that this would be in the nature of a differential payment for woods employees by reason [Tr. 660] of the travel involved from where ever the pickup point was to the point at which they began to punch in and be paid.

We discussed the lunch hour there and agreed that if there were a lunch hour involved, then it would be ten and one-half hours and beyond that we would pay travel time allowance, an amount of money for time spent beyond the ten and a half hours from the pickup point to the return of the pickup.

Q. This is for men that work out in the woods?

A. Yes. It would go to all of the employees who traveled beyond this marshalling point to their place of work. If this marshalling point should be at a woods headquarters or woods shop location, if an individual came to that marshalling point and worked there as a mechanic on the trucks

or whatever, he would not receive any differential, woods differential because he didn't travel beyond the marshalling point, but if he came there and went on some place to work, this ten hour formula would be effective in the suggestion made to us that day.

The union indicated to us that our proposal on brackets, our bracket approach was all right subject to receiving the list of jobs, amounts and number of incumbents.

Their wage proposal, I'm unsure of one of these figures, and I'm in opposition to the minutes on another of them, but the two cent bracket approach was accepted. I think this is the one I'm not sure of. I think the across the board wage [Tr. 661] increase 6/1/63 was fifteen cents an hour across the board. The second year 6/1/64 was seven and one-half cents per hour and the third year according to the minutes was three and one-half cents and I think it was three and one-half per cent, but I might be wrong.

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[Tr. 666] Q. (By Mr. Prael) Now, the next meeting between the Association on the one hand and the IWA on the other, that is the next meeting after the meeting of May 28, was when? Do you recall?

A. It seems to me that because of intervention of Memorial Day we were off a day or two.

Q. Was it on or about May 31?

A. Yes, I think it was May 31 or thereabouts.

Q. Could you tell me as best as you can recollect without going into too great detail the subject matters that were discussed and debated between you and Mr. Nelson; I take it at this meeting the representation of the parties, the IWA on the [Tr. 667] one hand and the Association on the other was the same as at the previous meetings?

A. Yes, essentially.

Q. Could you tell us in general the nature of the discussions without going into too much detail except I would like to know particular proposals that you recall being made.

A. It seems to me that we rejected at the meeting of—we, the Association rejected the proposals that had been

made by the union at the meeting of May 28, and debated the reasons therefore, indicated our reasons, elaborated to some extent on specific points that we felt were musts and discussed what seemed to be the must positions on the part of the unions. We were getting along toward the end and I think there may have been a little more heat in the discussions relative to the point we were reaching. I cannot recall, there may have been another offer by us after rejecting the union proposal, we may have come again, I rather think we did but I am not certain of that without refreshing my recollection as to when it occurred.

Q. Is that in general the topics covered in the matters debated at the meeting of May 28, 1963?

A. May 31 you mean.

Q. May 31, yes.

A. Yes, that is all that I can recall of specific nature. That isn't very specific.

Q. I show you Respondents' Exhibit No. 349 and ask you to look [Tr. 668] at the material under May 31, 1963 and ask you if that refreshes your recollection as to other matters that may have been debated at that time between the representatives of the two parties. Does that refresh your recollection as to any other matters covered?

A. Yes.

Q. What are they?

A. Well, what I had previously thought was the case, was the case, we did make another offer at that time.

Q. Did that involve a further wage increase offer?

A. Yes.

Q. And do you recall the figures that were offered at that time?

A. Yes, on wages, we offered eight and one half cents per hour across the board plus the two cent bracket adjustment that I already mentioned on 6/1/63 and five cents per hour on 6/1/64 and two and one quarter per cent on the payroll on 6/1/63. We agreed to a previous union position on the automation committee and said that we didn't think we were willing to set up a joint committee as they suggested.

Q. Did they agree on the union proposals on that issue on the automation committee proposal?

A. Yes, when we pointed out on the grievances or the performances of work, while a grievance was being settled, we said that we removed that item from our agenda and not discuss it anymore, [Tr. 669] although we wanted the union to understand that we never did think the contracts permitted refusals to work while grievances were being performed but we removed it from the agenda from bargaining at any rate.

Q. This was the item that you previously described that the union would not agree to?

A. Yes, and we withdrew that and we agreed to an automation committee and on travel time. We said that we would undertake a good faith study with the union and like committees or we would make a study as employers of the travel-time question and report the findings to a union committee within one year or not later than one year from the date of the agreement and that the results of the employer's study would be made known to the union and then could be reported to the negotiating committee for such action as they thought advisable on travel time at the expiration of one year. We continued to press the question for our concerted refusal to work overtime. We left that in our proposal. We made the wage proposal that I suggested and indicated that we were not going to make any—we were not going to be able to make further moves and the union asked me that what I was saying was that we had made our final offer and I answered in the affirmative that we had but that I was not saying take it or leave it, I was saying we were through making offers. It exhausted the possibility of making further offers. The union suggested that they wanted sometime to review what we had said [Tr. 670] suggested a recess. They didn't comment particularly. There were a couple of questions asked; one on travel time and one on automation.

Q. That isn't necessary to go into that.

There is this question; you previously testified, I believe, that the union had considered, Mr. Nelson had approved a suggestion that the companies were furnished a list of

bracket adjustment and he wanted the number of employees in the various jobs. Was that presented to the union at that time?

A. A list was presented; I am not sure whether we had the number of people in each job, we did in connection with making the offer as I once said, eight and one half across the board plus a two cent adjustment; we submitted the list from each company and each plant setting forth the jobs and the amount of the adjustment and I am not sure whether we had gotten the numbers of people on each job on that list at that time but I believe we did finally. We submitted the list as part of making this final offer.

Q. Now, the union asked for recess, do you recall the date that they asked for the next meeting to be set?

A. Yes, this was the last meeting of that.

Q. June 4?

A. June 4. They asked for recess until the morning of June 4.

Q. Did you have a meeting on the morning of June 4?

A. Yes.

[Tr. 671] Q. And how long did that meeting continue?

A. I don't recall.

Q. At that meeting was the IWA represented by Mr. Nelson and other members of the organization as in the previous meetings that you testified to?

A. Yes.

Q. And the Association was represented by you as its spokesman with other representatives as you have testified to?

A. Yes, sir.

Q. And can you give us the substance in general of the matters discussed without going into too much detail about the particular arguments but enough nevertheless, to cover the various subject matters and the positions of the parties as far as possible on the meeting of June 4?

A. It was largely a matter of outlining the positions of the parties. I do not recall that any offers or counteroffers were made by either side. There might have been but I don't think there was. We indicated, both sides did, that we were in a serious situation if there was no movement

on our part, if there was no movement going to be made by the union and they indicated there was none by us, we certainly were in a serious situation and I think there were comments made that if we intended to stand at this point, that the union would have to take such action as they deemed advisable and that our previous offer, the one made on the 31st was not satisfactory and would not solve the problems [Tr. 672] before us. We were urged to reconsider the position and do a better job of coming in with an offer to accept honorably, I think the word was. We indicated that no further movement was going to be possible and the union at the end of the meeting, the spokesman indicated that they were discontinuing these negotiations on the basis that the various contracts provisions in that regard—in that regard they were discontinuing any negotiations as of that point.

Q. Was there any reference to strike action?

A. Well, there was an unmistakable inference and I presume that during the course of the meeting the word may have been used a time or two. I am sure it was as a matter of fact.

Q. To your recollection, at the June 4, 1963 meeting was there any new, different or other subject of bargaining introduced by the union other than the items that you have already mentioned in talking about the previous sessions?

A. If there were, I certainly don't recall. It would be my recollection that there were not any new items.

Q. I will show you B-349 and call your attention to the material under the date of June 4, 1963 and see if that refreshes your recollection to any respects regarding that meeting of June 4. Does that refresh your recollection as to any other matters that were discussed at the bargaining session of June 4, 1963?

A. No, it doesn't indicate any new subject matter that I didn't talk about in my previous testimony. It does underline the fact [Tr. 673] that the possibility of strike was discussed rather thoroughly by both sides or considerably by both sides and the one notation that the word was used by the union that they did not want to fight nor did they come to the table to fight but if they had to, that is what had to happen. There was extensive quotings of increases

by other plants, union and non-union and other industries in the Pacific Northwest and other settlements were referred to as being greater than the one that we had suggested. The union pointed out that they figured there was some 15 cents between us and that certainly wasn't worth having a strike over. We ought to come up with the answer in the right place and avoid this happening. I pointed out that we didn't want it, we weren't there to do it and I wasn't accusing them of having a strike either but we had substantial differences on economics, that a strike is the worst thing that could happen, our markets might not be served by us but they would be served by somebody and that we certainly did not look with any favor on closing down, but neither did we know where we could go that would settle it other than accepting the union offer and since there was no additional movement by them, we had no way of knowing a point at which a settlement could be reached other than a full union offer and that was not acceptable and we didn't consider it economical and then it wound up with the union's statement that we were discontinuing these negotiations.

Q. Was there any reference by anyone as to whether there was [Tr. 674] or was not an impasse?

A. Yes, there was a statement by the union that this looks like it is where we reach the impasse and where we go from here we will have to see and we hope to get together again and no doubt will at some further time.

Q. That is not in detail but in substance the general matters covered in the negotiations of June 4, 1963?

A. Yes, sir.

Q. Did you have any further meetings that day with any representative of IWA?

A. Yes.

Q. And when did this occur, before or after the bargaining session that you have been talking about between the committees?

A. It was after the bargaining session.

Q. I see and with whom was this discussion?

A. With Mr. Nelson.

Q. And where?

A. At his office.

Q. Is that in Portland?

A. Yes.

Q. Who else was present besides yourself and Mr. Nelson?

A. No one.

Q. Would you relate to us what was said in that conversation as near as you can give it to us, the substance if you cannot give us the exact words? How long a conversation was this?

[Tr. 675] A. Short, 20 or 30 minutes, something like that.

Q. Tell us—

A. (Interrupting) Well, I can't recall the details of most of it. I can only recall one part that was in any detail at all. We discussed the positions we were in, being different ones, a pessimistic one and there was an awful lot between us and he was making suggestions as to what we would have to do to get off of it and I was pointing out the problems that we had in either giving up some of the things that we considered firm or granting some of the things that the unions were requiring at that point. We got around or I got around I think to the question of what might be the union's action and indicated and this is the only detail that I can recall, I did say that if the union should decide to take strike action against a part of the Association that certainly the balance of the Association would close its plants.

Q. Have you given the substance of all of that consideration that you recall at the present time?

A. Yes.

Q. Did Mr. Nelson say anything in reply to your statement?

A. The best of my recollection, he said something to the effect something like you wouldn't do that, would you, or something of this sort.

Q. Were some of the plants operated by members, employers of this Association thereafter struck?

[Tr. 676] A. Yes.

Q. When were they struck?

A. I believe it was the morning of the 5th, June 5.

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[Tr. 682] Q. (By Mr. Prael) Mr. Wyatt, I will show you a document consisting of three sheets of paper which has been marked for identification as R-210 in this proceedings and ask you if you recognize that?

A. Yes, I recognize it.

Q. What is that?

A. This was a statement that was made by the Association and was agreed upon by the Association and released by them as a result of our meeting on June 5, 1963, a statement relative to the strike and shutdown of the unstruck firms.

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[Tr. 683] Q. (By Mr. Byrholdt) Did you prepare this statement?

A. No.

Q. Who prepared it?

A. It was prepared by a committee of two or three people as I recall.

Q. Who were on that committee?

A. A Mr. Ron Gjerde—

Q. (Interrupting) And by whom was he employed?

A. Weyerhaeuser Company, and a representative of International Paper Company, Al—I can't recall his last name, and one other public relations representative of one of the member companies and I can't recall his name.

Q. Where was it prepared?

A. In Portland.

Q. Following its preparation by these three gentlemen, was it submitted to you for approval?

A. To me and to the negotiating committee, by me and submitted for approval by me and the negotiating committee of the Association.

Q. And you did approve it?

A. Yes.

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[Tr. 684] Q. (By Mr. Prael) You testified that you had a meeting at Mr. Nelson's office after the meeting between

committees representing the Association on the one hand, and the committee representing IWA on the other hand. Now, later in that day or at any time during that day, did you see Mr. Nelson or Mr. Hartley on a TV program?

A. Yes, I did.

Q. About what time of day was this?

Trial Examiner: Which?

Q. (By Mr. Prael) Either one or both. Did you see them at the same time?

A. Yes, as I recall, I saw a news broadcast of the two of them speaking together.

[Tr. 685] Q. Who is Mr. Hartley?

A. He is the, I believe he is executive secretary of the Lumber and Sawmill Workers for the area, and they appeared together in more than one television broadcast that evening.

Q. The evening of June 4th?

A. Yes, to my recollection.

Q. And can you relate what you heard in this broadcast?

A. The import of them was that the strike—

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Q. (By Mr. Prael) Would you give us the substance of what you heard them say during the program?

A. That the two unions had determined to strike at least some of the member companies of the Association, that bargaining had broken down, there were insufficient offers made and that strikes were going to take place and had been ordered by the two International Unions against at least some Association members, was the import of it.

Q. Is that all that you recall being said by either or both of them during the broadcast? You didn't specify which one by name.

A. They both spoke on the broadcast as I recall. They indi- [Tr. 686] cated that they—

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Q. (By Mr. Prael) You told us as nearly as you recall the substance, at least, of what Hartley or Nelson said during the broadcast?

Mr. Toulouse: He has answered that.

A. There was one other item that I believe was mentioned in the broadcast. My recollection is that they indicated that the two unions were joined together in some fashion in this effort, at least, they were in accord to take this action together in some fashion.

Q. (By Mr. Prael) Is that all that you recall now?

A. Yes.

Q. Did you hear Mr. Nelson say now and I quote from R-378, "That the unions had elected to strike certain selected Companies at first and then extend it from time to time as circumstances and good strategy dictates."

Mr. Byrholdt: Objection.

Mr. Toulouse: Object.

Trial Examiner: I think it goes beyond what is necessary to suggest [something] to a witness of what he can't recall. On that ground I sustain the objection, however, the damage has been done now, so—and I don't think Mr. Wyatt will give us an answer that will go beyond what he actually heard, so I think [Tr. 687] I will permit him to answer.

Mr. Prael: I will withdraw the question.

Q. (By Mr. Prael) Was there any meeting with the IWA on June 5th, June 5th you said that certain companies were struck?

A. Yes.

Q. Was there any meeting with the IWA on June 5th?

A. No, sir.

Q. Was there a meeting of the members of the Association or any committee of the Association?

A. Yes.

Q. And who called that meeting and what was that meeting?

A. I called the meeting with the assistance of Mr. Boddy, as to the mechanics of calling it, and the purpose was to gather the negotiating committee of the Association and other representatives of member companies as the member companies may wish them to come. Having gotten the inference that, a very definitive statement that strikes

were going to occur against at least some members on the 5th, I wanted the meeting in order to receive direct evidence from member companies as to whether or not strikes did occur and all details relevant thereto.

Q. And such a meeting was held?

A. Yes.

Q. About what time of day, do you recall? Was it in the morning or afternoon?

A. I recall it was in the afternoon.

[Tr. 688] Q. And would you tell us the substance of what was discussed and what was decided, if anything?

A. Well, I requested information from the two companies which by then we had learned, I guess you would say unofficially, at least through newspaper reports and by telephone and so on that certain plants or all of the plants—no, not all, but certain plants of United States Plywood Corporation and St. Regis Paper Company had been struck as of that morning and I asked representatives of those companies to give us complete detail as to were they in fact struck and did they know of their knowledge that they were struck and were there pickets present and the nature of the picketing and were the operations stopped as a result of that picketing and I received reports from St. Regis representatives and U.S. Plywood representatives that that was the case, that they were picketed and that their operations were shut down as a result of that picketing and I inquired as to whether there was any possibility that any of these strikes at any particular location might have been the result of something other than the bargaining we had been participating in between the Association and the Unions. Could there be a grievance strike or something else other than the issues before the Association, and the unions. I received notification from those companies, that no, that they were clearly strikes effective picket lines against their plants, they were shut down.

[Tr. 689] Q. Then was any decision made or direction given?

A. Yes.

Q. What was it?

A. We determined on a course of action to close down

the plants of the four unstruck companies pursuant to the agreement in our agreement to do so if one or more members were struck and we discussed the details, the announcement that should be made to both the employees, press and public, the details of bringing out an order to close down and agreed among the four companies as to how to carry it out and the schedule that would be followed and we proceeded to do so.

Q. Was it pursuant to that arrangement that R-210 was prepared and released?

A. Yes, the press release that I just read a moment ago?

Q. Yes.

A. Yes.

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[Tr. 690] (By Mr. Prael) Would you tell us who was represented at the meetings—

Trial Examiner (interrupting): Temporarily, at least, I am going to deny the motion.

Mr. Prael: I will elaborate on it.

Trial Examiner: All right.

Q. (By Mr. Prael) Do you recall who was represented at the meetings of June 5, 1963, and who represented them? Were all [Tr. 691] six companies represented?

A. All six companies were represented. Weyerhaeuser Company was represented by myself, Mr. Scott Witt and Mr. Eugene A. Hoffman, Mr. John R. Titcomb, and I—it's not my testimony that all of these people were official representatives. I am trying to name those that I recall being present. Ron Gjerde.

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[Tr. 692] Q. (By Mr. Prael) Calling your attention to R-206 which is the Association agreement, was any reference made to the subject matter of Paragraph 7 of that agreement, R-206 which is in evidence as the agreement between the several parties that you have named dated April 22, 1963.

Mr. Toulouse: That question can be answered yes or no.

A. The question was, was this clause discussed?

Q. (By Mr. Prael) Yes, or the subject matter of that clause.

A. Yes.

Q. And what was said and by whom?

[Tr. 693] A. I pointed out very nearly at the outset of the meeting, if not exactly at the outset of the meeting that as we were all aware we were and had obligated ourselves to close down any unstruck operations in the event that a strike against any members of the Association occurred, and that we needed to determine beyond any doubt as to whether a strike had occurred over subjects delegated to Association et cetera that I already testified to and assuming that this is determined, then we will arrange an order to close down the unstruck operations.

Q. Did anyone disagree with you?

A. No, sir.

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[Tr. 694] Q. (By Mr. Prael) What was said after that as to how the shutdown was to take place and who said it?

A. I asked, as I recall, each company representative of the four unstruck companies to make a statement for the benefit of all of us as to how soon it was going to be practical for them to be closed down at that location so that we all knew and my recollection is that each company made such a statement. They had this or that problem, some could go down tomorrow and some couldn't go down until Friday and it seems to me that the 5th was a Wednesday, if I recall, and there was some possibility in buttoning some operations that—

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[Tr. 695] Q. (By Mr. Prael) What was decided to be done regarding the shutdown?

A. To shutdown—that was already decided before the meeting. The meeting was for the purpose of deciding

timeliness and so on as soon as we found out that a strike occurred, we were certain of it.

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[Tr. 696] (By Mr. Prael) Those are the plants, that is, that were covered by the bargaining which occurred between the union and the Association?

A. Yes.

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Q. (By Mr. Prael) Is that all that you recall about the meeting of June 5th?

A. The only other thing was we could issue or give instructions, I gave instructions with the approval of five of the six company representatives, gave approval to Mr. Gjerde and his public relations committee to make available copies of the draft of the statement for the press, radio, television, employees, or whoever they might want to use it.

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[Tr. 697] Q. (By Mr. Prael) Mr. Wyatt, I show you Respondents' Exhibit 26, would you look at that please.

A. Yes.

Q. I notice the initials up in the right-hand corner, J.R.T. Whose initials are those?

A. I would say those are the initials of John R. Titcomb.

Q. Underneath that, whose initials are those?

A. Probably me.

Q. On the back there appears to be a signature of Robert E. Johnson, or facsimile thereof, who is he?

A. Manager of Weyerhaeuser Company, Arcadia Branch, Arcadia, California Branch.

Q. Do you recognize this document, have you seen it before?

A. Yes, sir.

Q. And approximately when—tell us what it is.

A. It is a regular issue of sort of a manager's newsletter or branch newsletter which the Arcadia Branch issues periodically—

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[Tr. 698] Q. (By Mr. Prael) Mr. Wyatt, is the Arcadia Acts & Facts something that is put out, put out regularly to the employees at the Arcadia plant by the Weyerhaeuser Company?

A. It is put out regularly, intermittently, but regularly—I guess those two words compete with each other.

Q. I notice that a copy is to be mailed to each employee's home. Do you know whether or not that was done in this case?

A. We had asked, we—myself—

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Q. (By Mr. Prael) The question was do you know whether this was mailed to the employee's home, each employee's home? I don't think anybody knows that.

A. I don't know of my own knowledge.

Q. Did you issue any instructions to your plant managers in regard to giving the employees information regarding the shutdown?

A. Yes.

[Tr. 699] Q. What were those instructions and when were they given?

A. We gave them, I gave them instructions at the meeting of June 5th, to which I have already testified, that I considered it completely desirable that at least the first communication to employees relative to the shutdown be mailed to their homes since the shutdown was going to occur and they might not otherwise be reachable, but I suggested it as the most desirable procedure and then I reached agreement with Mr. John R. Titcomb of our company that would issue instructions to the managers, being their superior, that he would issue instructions to our managers to do so.

Q. What was Mr. Titcomb's position with Weyerhaeuser?

A. Vice-president in charge of Manufacturing of Wood Products Division.

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[Tr. 704] Q. (By Mr. Prael) Mr. Wyatt, you were testifying yesterday regarding a decision reached by the Association to shut down certain operations of the members of the Association at a June 15, 1963, meeting.

A. I think it was June 5.

Q. At a June 5 meeting.

Was your company, the Weyerhaeuser Company, one of those which shut down its operations pursuant to that arrangement?

A. Yes.

Q. And how were the employees advised of what was being done?

A. I think they were told orally by their respective supervision and in addition, I believe, the managers of each of our operations advised the employees with a written statement.

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[Tr. 705] Q. (By Mr. Prael) I will show you R-28 and ask you if you can identify that signature.

A. Yes, I can identify the signature.

Q. Is that Mr. Hazen's signature?

A. Yes, sir.

Q. Who is he?

A. He is the branch manager of the Everett Branch of the Wood Products Division.

Q. Was that sent to the employees or delivered to the employees about that time?

A. I can't testify as to my personal knowledge. It was prepared for that purpose, yes.

Q. And as a result of these arrangements for the shut-down as you have testified to?

A. Yes.

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[Tr. 706] Q. (By Mr. Prael) I ask you if you recognize the signature on this letter, Mr. Wyatt.

A. Yes.

[Tr. 707] Q. That is the signature of whom?

A. Mr. John D. Bishop, Branch Manager, Kalmath Falls Branch, Wood Products Division, Weyerhaeuser Company.

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[Tr. 709] Q. (By Mr. Prael) Do you know who Roger Sands might be?

A. He was then, at the time of this letter, he was the production manager of Longview Branch. He is at the present time the manager of Longview Branch.

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[Tr. 712] Q. (By Mr. Prael) Respondents' No. 211 is addressed to a particular local at Longview, Washington. Do you know whether or not a similar letter was sent to other local representing employees of the Weyerhaeuser Company?

A. Yes, I believe a similar letter was sent to each local representing Weyerhaeuser employees.

Q. As I understood your testimony on examination of Mr. Roll, a form letter was prepared to be sent by each company to the various locals, each branch, so that the local unions would be advised as to the purpose and nature of the shutdown.

A. Yes.

Q. And were such letters substantially in the form of R-211 sent as far as you know?

A. Yes, it is my recollection that they were.

Q. These letters were they sent only to IWA employees, or also to LSW?

A. No, I believe they were sent to LSW locals as well as to IWA locals, to branches that had contact with the LSW also.

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[Tr. 721] Q. (By Mr. Prael) Do you know where that was prepared, sir?

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A. It is my recollection that this form substantially in this form was prepared in Portland, Oregon, by the Association, some delegated members thereof, for counsel therefor, and they submitted to the negotiating committee, of which I was a member, a [Tr. 722] draft suggesting that this might be a desirable instrument to notify employees. We did, as a negotiating committee, finally approve a text of a draft so submitted for this purpose.

Q. (By Mr. Prael) Was there one prepared for submission to employees and another one prepared for communication from the local branch manager to the local unions?

A. Yes, and I think probably one was prepared for submission to the press and the public as well. We looked, we the negotiating committee of the Association, examined a number of drafts for various purposes. Upon approval, they were, the copies were supplied to each member of the negotiating committee. Hence one to a company, one person to a company, and they took those and made such distribution as was in their judgment desirable and through whatever chain of command they had traditionally used or chain of communication.

Mr. Roll: May I ask one further question?

A. (Continuing) This is my recollection about the way that it was prepared. Any that were prepared in Tacoma, as has been mentioned, were prepared by Weyerhaeuser Company for Weyerhaeuser distribution, it was not the preparation of the original text.

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[Tr. 727] Q. (By Mr. Prael) Mr. Wyatt, did the company, during the course of these negotiations with the charging parties, the unions in this case, send any information to the employees regarding the course of those negotiations?

A. Yes.

Q. I will show you R-29 and ask you if you recognize that.

A. Oh, it is signed by Mr. Hazen, Ned B. Hazen, manager of the Everett Branch of the Wood Products Division of the Weyerhaeuser Company. It appears to be, it is a letter to employees.

Q. Do you recognize that? Was it shown to you at that time, when did you first become acquainted with it?

A. I have seen a suggested format very much like this, if not identical to it, which was suggested to each manager by Mr. John R. Titcomb, our vice-president in charge of managing the Wood Products Division.

[Tr. 728] Q. Were letters in that form sent out to employees of Weyerhaeuser Company and its various branches on that date?

A. Each manager was requested by Mr. Titcomb to do so and I have seen a number of copies. I couldn't testify that I personally have seen every one.

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[Tr. 730] Q. (By Mr. Prael) I ask you, Mr. Wyatt, do you recognize the signature on that? Is that Mr. Hazen's signature again?

A. Yes, that is Mr. Hazen's signature.

Q. What was his position?

A. Manager of the Everett Branch, Wood Products Division.

Q. Are you familiar with that, have you seen it before?

A. I cannot recall.

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[Tr. 732] Q. (By Mr. Prael) Mr. Wyatt, do you recall, now, after the strike of June 5, 1963, and while the shutdown of certain operations of member companies of this association, when did you next meet with the representative or representatives of IWA?

A. I believe—

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[Tr. 733] Q. (By Mr. Prael) Coming back to the question, after the strike of June 5, and the shutdown of certain operations, when was the next occasion on which you met, if you did, with representatives or a representative of IWA?

[Tr. 734] A. This would have been a meeting in mid-June. I believe it was the 18th, but I am not certain. It was the middle of June at any rate. It was called by the Federal Mediation and Conciliation Service.

Q. And was this the first meeting in which the Federal Mediation and Conciliation Service participated?

A. Yes, I believe it was.

Q. When was the meeting held and where? In the morning, in the afternoon, or when, can you recall the time of day on June 18?

A. The meeting that was called with the IWA was in the morning, early in the morning.

Q. Were there also meetings the same day with the LSW represented?

A. Yes.

Q. Coming back to the meeting with the representative or representatives of the IWA, was this meeting called by the conciliator? Who called you about this meeting, who was it who called?

A. Mr. George Walker of the Federal Mediation and Conciliation Service of the Portland office, and Mr. Roy Smith of the same office, called me several times about this meeting in the course of setting up a convenient time and place. I would say I had two or three calls from them in the process of its being set up and agreeing to this meeting.

[Tr. 735] Q. Who was present at the meeting besides yourself?

A. I was there. It took place in the offices of the Federal Mediation and Conciliation Service in Portland.

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[Tr. 739] Q. (By Mr. Prael) Who was present, this was a meeting of June 18, called by the conciliators.

Trial Examiner: He didn't testify as to the date, but if there is no dispute, I guess we will accept that.

The Witness: I testified I thought it was the 18th, sir.

A. The persons present were Mr. Walker of the Federal Mediation and Conciliation Service; myself; Mr. Harvey Nelson; and Mr. D. C. Gundvalson.

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[Tr. 740] Q. (By Mr. Prael) Do you recall the time of day this meeting in Portland on June 18, called by the conciliator, occurred?

A. The one with the IWA?

Q. The one with the IWA, yes.

A. I would say it was the first thing in the morning, 8, 8:10, 8:15 a.m.

Q. That was in Portland, Oregon?

A. Yes.

Q. Was the meeting with the representative or representatives of the LSW also in Portland?

A. Yes.

Q. Did you make notes of either of these meetings?

A. Not during the meetings, no.

Q. Did you make notes at any other time?

A. Yes, immediately after. I recorded my recollection of what had occurred.

Q. And immediately after, how soon after the meeting with the IWA representatives on June 18, 1963, did you make the notes?

A. The time it took to fly back to Tacoma, which was about an hour; about two hours after the second of these meetings, I dictated my recollection of what had occurred.

Q. The second of these meetings, which was first, the IWA meeting, [Tr. 741] or the——

A. (Interrupting) The IWA meeting was first, followed by a meeting with the LSW.

Q. And you returned to Tacoma that same day?

A. Immediately after the second meeting.

Q. How did you travel?

A. By company aircraft.

Q. Where did you prepare those notes? I am referring now to the IWA meeting, where did you prepare the notes of the IWA meeting?

A. In the Weyerhaeuser office in Tacoma.

Q. About what time of the day was it?

A. Oh, it was in the afternoon, early to mid-afternoon, the meeting having been held in the morning of the same day.

Q. And how did you prepare these notes; record your recollection?

A. I went to Mr. Oliver Malm's office in Weyerhaeuser's law department and dictated them to his secretary and they transcribed them.

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Q. (By Mr. Prael) Mr. Wyatt, would you tell us as nearly as you can, first, how long did the meeting with the IWA representatives whom you have named last?

A. Oh, an hour, an hour and fifteen minutes, something [Tr. 742] of this order, approximately. I am not sure.

Q. Would you now relate to us as nearly as you can what was said at this meeting and if you can, give us the exact words, give us the exact words and who said them, and if not, the substance of what was said and by whom?

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A. Mr. Walker opened the meeting, as I recall, indicating that he had called it and that the strike and shutdown, which was then in progress, involving the six member companies of the Association that I represented, was a very serious situation.

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[Tr. 744] Q. (By Mr. Prael) Would you tell us as nearly as you can what was said during the meeting of June 18 with Mr. Nelson, Mr. Gundvalson, Mr. Walker, and yourself, in Portland, Oregon?

A. Mr. Walker stated that the strike and shutdown involving as many people as it did in this area, was a very serious thing and it was needed to be solved and these people needed to get back to work and that was the reason that he had called the meeting.

He further indicated that he was under some pressure, as he put it, or urging might have been the word, from his superior or others in the Federal Mediation and Conciliation Service—I took it—

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[Tr. 745] Q. (By Mr. Prael) With those instructions, can you proceed as best you can?

A. Yes. I was asked for a statement of position as to where I thought we were with respect to the Association's position that had been taken before the strike.

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[Tr. 746] A. (Continuing) I stated that I did not have any different position to take other than the one that had been taken prior to the strike and I recall pointing out that if anything the Association's position was probably somewhat firmer, as I felt it from various member representatives, and that I felt that that firmness had come about or had, as has been expressed to me by members, representatives for basically a couple of reasons.

One was that the Association had been—

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A. (Continuing) I said that the firmness that I sensed among the individual members of the Association was due or had been expressed to me as being due in part to the fact that we had [Tr. 747] had charges filed against us by the unions of an unfair labor practice and that there was a distinct feeling that the unions were singling out the Big Six as it was then called, or the Association, and other companies in the industry and apparently were not so picketed for action of this kind and the combination of these factors did cause some of our people to dig in their heels or words to that effect.

I pointed out that that was not my personal view. I had been in bargaining a few years and I realized that it was our job to get a settlement and not to be concerned about incidents as they occur along the way but rather to keep our eye on the settlement possibility. But nonetheless, in response to the question I had been asked, I could only report that these incidents and perhaps others, did result in the certain firming up of the situation so that I wasn't there in any position to indicate any particular change of position.

The conciliator, very generally, in hearing my statement indicated that it was his experience that these kind of charges were customarily dropped at the time that a settlement was reached and that shouldn't be on the table before us today. We should get on and settle it because, as he understood, these kind of procedures, they were ordinarily dropped and so we went on and talked about the issues between us.

It is my recollection that Mr. Nelson indicated that his position was not changed. We talked about the hours of labor [Tr. 748] situation and I expressed regret that it seemed to have gotten pretty well magnified and heated up beyond proportion, and he said, or in effect indicated, that the responsibility for that was just as much a part of the employers' as anybody else for the way we had presented the issue initially. And I said that there might be, I can't recall specifically what I said, but we discussed the matter of how it got heated up and it included statement by me that perhaps I had loused it up, perhaps it had been magnified in the field, but in any case, it had reached proportions well beyond its significance.

It seems to me that Mr. Nelson indicated that we ought to get the show on the road and get it settled, or expressed some particular concern, made a particular point that we ought to get it done before the 4th of July if we could, because after that it would be increasingly difficult to settle if we let it go beyond that point.

I can only be general. We talked about travel time and hours of labor and overtime. I am not sure whether we talked about overtime. There should be a number of minutes of discussion of this kind about the points between us and how they might be resolved, and so on.

And the final part of the meeting, I pointed out, I asked for the opportunity to go to another related subject and pointed out that due to the very severe blow-down condition which occurred in the woods on October 12, 1962, there was a good deal of [Tr. 749] down timber which constituted a fire hazard as we went into the summer months, which we were already in, unless fire roads and fire trails, access roads to those areas were constructed, and I requested of the union in that meeting their agreement to our using people in those woods operations to build those fire trails and access roads in order to be prepared for the possible occurrence of a fire.

I pointed out obviously if one should occur and we didn't have fire roads it would be a tragedy for all concerned. Mr. Nelson indicated that he understood that and as things

stood he was quite willing for us to do that. I asked him if he would notify the locals to that effect and he said that he would do so.

Those are general statements. Some are specific, some that I do remember specifically, and I think that has exhausted my recollection.

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[Tr. 750] Q. (By Mr. Prael) I will show you R-353. Are these the notes that you prepared on the same day of the meeting?

A. Yes, they appear to be the ones that I dictated.

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[Tr. 751] Q. (By Mr. Prael) Mr. Wyatt, would you, have you looked at R-353?

A. I only glanced it through fast enough to see if it was my notes.

Q. Well, now, would you read it and see if it refreshes your recollection in any respect as to further events that happened on June 18 in that meeting?

I regret to take this long way about it.

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Q. (By Mr. Prael) Mr. Wyatt, having referred to R-353, being the notes you made the same day as the meeting, June 18, 1963, was your recollection refreshed as to any events of that [Tr. 752] meeting?

A. Yes, there were a couple of other subjects and there is some further details of our discussions relative to hours of labor and travel time.

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[Tr. 753] Q. (By Mr. Prael) Tell us, Mr. Wyatt, now, of the meeting of June 18.

A. On the question of hours of labor and travel time, Mr. Nelson indicated that the seven-day week situation was going to be very difficult to include, that there was considerable objection to it and he didn't see how it could

be done and the travel time issue had to be included and it wasn't necessary to have further study of the issue. Something had to be included in that regard.

I asked him, Mr. Nelson, if he had in mind the combining of the two issues, in fact, the conciliator asked us if there was some way that we could delay these until some future date, and the union replied that the travel time couldn't be delayed and they had a serious question as to whether anything could be done on the hours of labor.

I asked him if he was suggesting that we might put them both in the same study category and come up with an answer to both of them as a result of a study, and the answer given me was definitely not, that that was one of the things his people were concerned about, obtaining their objectives on woods travel time, that it might be in some way considered contingent upon a concession with respect to our opening on hours of labor, so that would be unsatisfactory.

We discussed at some length the matter of additional meetings and the desirability of them. A suggestion was made, rather [Tr. 754] urged, as I recall it, by the conciliator to the effect that we should meet on a day shortly thereafter this particular meeting. I expressed concern as to whether that meeting would be timely in view of the feelings of the parties, that we might be meeting too soon. I recognized the responsibility to get this show over with, but that meetings held too soon when the parties were somewhat inflamed don't always make progress and Mr. Nelson indicated that that was his experience, too. That that sometimes is a bad time for a meeting. He pointed out that he had other meetings scheduled, pointed to some with Georgia-Pacific and some with Simpson coming up in the immediate future, and that he felt that there was a possibility that a settlement might be reached between his union and one of those companies at those meetings.

He indicated that it had been his desire, in view of the formation of the Association and the conduct of bargaining this year, that he would like to settle on the Association basis first and I said that I would, too, that I thought that was a good way to start out, to make the initial settlement, but I did say if there was no change in the union position

it didn't appear that we were in that area, and if we weren't, there wasn't much point in forcing a meeting too early just in hope of being ahead of somebody else because we probably wouldn't accomplish it in the first place.

I recall being asked what the employers' position might be [Tr. 755] if a settlement were reached with these other companies and I believe I recall, I do recall, that I responded that I supposed it would depend on the nature and type of the settlement and what it was. It would be hard to predict; that a simple fact a settlement occurred, that it wouldn't change our minds, but the nature of the settlement might.

I believe that we reached an agreement then that we would not try to get together prior to these other meetings that were pointed out but we would have one or schedule one, which I believe was made contingent on the conciliator calling a meeting of the parties on the 27th, which was after these intervening meetings.

The point was made that it would be desirable for the conciliator to announce this meeting somewhat closer to its date, rather than to announce it right then, in view of the fact that the public or others might feel why are you, on the 18th, scheduling a meeting some nine or ten days later, and it was agreed that the conciliator, at least tentatively, agreed that the conciliator would call such a meeting of the parties, both of the committees, full committees of both parties.

Q. Does that conclude your present recollection of what happened?

A. We had a discussion of our individual attitudes relative to the price, the wage issues here, giving, according to my recollection, only personal opinions and not either one represent- [Tr. 756] ing it that it was the attitude of the people we represented, and trying to see really how far apart we were.

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Q. (By Mr. Prael) It isn't necessary to go into all of it.

A. We had a discussion of the wages and how far apart we were.

Q. Have you covered all of the subjects in that meeting that you recall as to what happened?

A. Between what I said before, my memory and recollection was refreshed and since added together, is all that I can recollect.

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[Tr. 762] Q. (By Mr. Prael) Was there another bargaining meeting—you testified to a meeting on June 18 called by a conciliator. Was there another meeting with representatives of the IWA in June after this meeting of June 18?

A. Yes, it is my recollection that the meeting that was discussed as a possibility in the meeting of June 18, and we were discussing the possibility of meeting on June 27, and it is my recollection that we did meet on June 27.

Q. And at the meeting of June 27, was the Association represented by yourself and other members of the Association bargaining committee as related in the earlier meetings which occurred in April and May?

A. Yes, it was.

Q. And was the IWA represented by its committee with Mr. Nelson as chairman and the other members you related as occurred in a series of meetings in April and May?

A. Yes, substantially so.

Q. At this meeting was Commissioner Walker of the Federal Conciliation Service present?

A. I am not certain whether he was there or not.

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[Tr. 764] Q. (By Mr. Prael) Mr. Wyatt, who was present at the meeting of June 27 representing the Association and in what capacity? Was there a committee and what was it composed of and so forth?

A. The Association's negotiating committee was present at that meeting as it was at previous meetings between the full representation of parties. The Association's negotiating committee was composed of Mr. Hallin of Crown Zellerbach, Mr. Kelsey of the International Paper Company and

Mr. Forrest of Rayonier, Mr. Leeper and or Mr. Doherty of U.S. Plywood, Mr. Roberts of St. Regis, Mr. Titcomb of Weyerhaeuser, and I guess I already said that I served as chairman.

The reason for stating Leeper and or Doherty in the case of U. S. Plywood, was that Mr. Leeper was not always present and Mr. Doherty did on occasion sit in for him and he had full power to represent or to vote on that committee when he was there in place of Mr. Leeper.

There were others on that committee who were from time to time at a given meeting or at part of a meeting replaced by someone else in their organization or appointed to do so and [Tr. 765] upon notification to me that someone, some member of the committee was not going to be present, they advised me who was going to be there in their stead, why, they were allowed to serve in place of the committee member.

Q. On the other hand, Mr. H. R. Nelson has signed his name as chairman of the negotiating committee. He did act in that capacity as far as you know?

A. Yes, sir.

Q. And that is a correct representation, is it not, as far as you know?

A. Yes.

Q. Do you recall who might be the other members of Mr. Nelson's committee? Do you recall the names of any of them, was Mr. Fadling on that committee?

A. It seems to me that Mr. James Fadling was a member, as I testified before, and I think Mr. Leonard Palmer was a member of that committee.

Q. Mr. Taub?

A. Mr. Taub was present at a number of the meetings. I am not certain that he was a member of that committee. I do not know whether he was or not. I am not sure about Mr. Gundvalson who was also present at the meetings, but I do not know whether he was a member of the Western States District negotiating committee.

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[Tr. 766] Q. (By Mr. Prael) Mr. Wyatt, during the meeting of June 27, 1963, between the parties, the Association and the IWA, did the parties discuss and bargain on wages, hours and working conditions of the employees represented by the union, by the IWA?

A. Yes.

Q. Were offers and counteroffers made? Were statements of position given?

A. Statements of position were certainly given. It seems to me there was a, what might be called a minor change of the position on the part of the employers that took place in that meeting, if I am not mistaken.

Q. Were all of the various economic and contractual issues which you have testified were discussed in the earlier meetings discussed again in this meeting?

A. Yes, they were.

Q. How long did this meeting last, do you know?

A. No, sir, I don't know with certainty. It seems to me it might have been a day long.

Q. Was it fifteen minutes or—

A. (Interrupting) It was of considerable length, several hours.

[Tr. 767] Can I add to an answer of a previous question?

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Q. (By Mr. Prael) Do you recall some further people?

A. He was talking about the makeup of the committee. I believe this was the meeting at which representatives of the Lumber and Sawmill Workers sat in the negotiations and were described as observers. They weren't participants.

Q. Who were they, Mr. Hartley and others?

A. Mr. Hartley was present, Mr. Bledsoe, Mr. Prusia was present and seems to me there was another person—that I don't remember.

Q. Was the entire meeting taken up with the bargaining on these issues relating to wages, hours and working conditions of the employees?

A. Yes, yes.

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[Tr. 768] Q. (By Mr. Prael) Can you answer the question? I will repeat it.

A. Please.

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[Tr. 770] Q. (By Mr. Prael) Was there a further meeting, do you recall, between representatives of the Association and either representatives or a representative of the IWA after this meeting you referred to and what you have just been testifying to, the meeting of June 27? When was the next meeting with a representative of the IWA?

A. It's my recollection that the next meeting was a very small meeting in the evening. It was the end of the first week in July. You say, this last meeting was June 27.

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Q. (By Mr. Prael) And where was this meeting, do you recall?

A. Yes, it was in the Multnomah Hotel in Portland, Oregon.

Q. And this was in the evening?

A. Yes, it was in the evening.

Q. And was there a representative of the IWA present?

A. Yes.

Q. Who was that?

A. Mr. Nelson.

Q. Was there a representative of the LSW present?

[Tr. 771] A. Yes.

Q. Who was that?

A. Mr. Hartley.

Q. Who was present representing the Association?

A. I was, Mr. Kelsey, and Mr. McMahon.

Q. Mr. Kelsey is with the International Paper Company?

A. Yes, and Mr. McMahon is Industrial Relations Director of St. Regis Paper Company.

Q. Now, during this meeting on the evening of July 9, 1963, between the Association representatives and the rep-

representatives of the IWA and the LSW as you had stated, did the parties discuss bargaining on the wages, hours and working conditions of the employees represented by the respective unions?

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[Tr. 772] Q. (By Mr. Prael—interrupting) How did you happen to go there?

A. I received a telephone call from Mr. Nelson who indicated to me that on the day before the committees of the IWA and LSW had been discussing a, what he referred to as a revised minimum position, that he would like to discuss with me and I said that I would like to if he was going to be discussing a change of position of some kind, I would certainly like to bring [Tr. 773] other members of the negotiating committee, if that was satisfactory. He said it was satisfactory and I said that we could come right over and he said well that he and Mr. Hartley had business, I don't remember where, they had to leave town for a period of time that day but would be back that evening and would call me when they returned and ask that I join them at that time for this meeting.

Later in the evening, I don't recall the exact time, but sometime that evening, they did call and said they had returned and asked if we could come and the three of us did. That is how we got together.

Q. You and Mr. McMahon and Mr. Kelsey went there?

A. Yes.

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[Tr. 775] Q. (By Mr. Prael) Tell us what was said and by whom as nearly as you can, and if not the details the general subject matter as exactly as you can in as much detail as you can as to what happened in that meeting.

A. One or the other of the union representatives outlined a, what I believe they referred to as a revised minimum position which they had discussed apparently jointly the day previously. Incidentally, that does refresh my recollection—they mentioned discussing it previously. The 8th

was a Monday and that was the only day they could have done it so therefore this meeting [Tr. 776] was on the 9th. They outlined this change of position and discussed it for our benefit. I pointed out to them that the three of us were there at the suggestion of our negotiating committee, that two of us were members of the negotiating committee and we had been in session in the Benson Hotel that day and when this request to come over was heard and answered, the negotiating committee decided who would go over. In view of the fact that we understood that there would be two representatives of the union, we didn't suggest the whole committee and I explained this.

I commented—I can't recall the details of this revised position. I don't recall what it was in numbers. I do recall commenting afterwards that it didn't sound like much of a change of position, that it was, I think I said something to the effect that it was at best lateral and really I didn't think that the Association would have any particular charm for it and I think either Mr. Hartley or Mr. Nelson, I forget which one, said, well, we didn't really expect you to buy it or be thrilled with it or words to that effect.

We discussed further a number of the points before the parties, the ones to which I testified previously were gone over again, as far as the relative wage position, the distance apart, the desirability of settlement, what was occurring elsewhere and they indicated to me that this had been presented, this same position to other industries, segments or units that [Tr. 777] day, I don't know which ones, but they had apparently discussed this proposal with others, either independents or TOC or somebody else.

Q. TOC is Timber Operators Council?

A. Yes.

Mr. McMahon indicated that he was—his office is in New York, first, and he did not spend full time out here with us during this period, but pointed out that he was concerned that the combination of circumstances of the bargaining itself, the way it was being conducted with various segments you might say around the Association and the Association itself coupled with the unfair labor practice charges which we by then were aware of seemed to him to be some-

thing of an attempt to be sure that they moved the Association out of the water, that it was an attempt to prevent it from succeeding as an entity. Those are not the exact words, but that was the sense of it.

Mr. Nelson did say that he did not consider that the case and turned to Mr. Kelsey and said that, as I have said before, I don't mind saying it again, we think this was a desirable move and something to the effect that it is too bad it got into trouble the first year.

Q. Referring to what?

A. The Association.

There was more discussion. It wound up with a discussion about the desirability of a meeting. It wound up talking [Tr. 778] about whether we should meet on some date. There was the usual discussion about how far apart we were and whether a meeting would be desirable under those circumstances or whether it should be delayed a while or held right away. I don't remember how that came out. I don't think we established a date at that time, but I think we kind of agreed to establish a date, said we ought to get a date established. Maybe we did decide on one, I don't know.

Q. That is all that you recall of the meeting on July 7th, July 9th?

A. I believe it was July 9th.

The only other thing I recall is that there was more to it but I don't remember it. I think I covered the major points that occurred that I can remember.

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[Tr. 780] Q. (By Mr. Prael) When was the next meeting with the IWA representatives?

A. July 15.

Q. Were there representatives of other unions present at that meeting?

A. Yes, there were representatives of the IWA and representatives of the Lumber and Sawmill Workers.

Q. Who called that meeting or how was it arranged?

A. I believe it finally wound up being credited to the Conciliation Service for calling the meeting.

[Tr. 781] It seems to me that the parties agreed themselves that this was the desirable time and place to meet.

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Q. (By Mr. Prael) Do you recall who was present representing the Association or was spokesman for the Association at the meeting?

A. I was the spokesman for the Association.

Q. Were there other members of the negotiating committee of the Association present in the previous cases where you have testified in the April meetings and the May meetings?

A. Yes.

Q. Was the IWA represented by Mr. Nelson and members of his negotiating committee?

A. Yes, sir.

Q. Was the LSW represented by Mr. Hartley and his negotiating committee?

[Tr. 782] A. Well, by Mr. Hartley and a number of other representatives of that union. I don't whether they were the negotiating committee as such. There were other members present, represented.

Q. Could you tell us as nearly as you can how this meeting began? Was it in the morning or the afternoon of July 15, as you recall it?

A. It seems to me that was a morning meeting. It started in the morning.

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[Tr. 784] Q. (By Mr. Prael—interrupting) The question was what happened at this meeting?

A. It seems to me that the conciliator or one of the other of them opened the meeting with a statement of the situation and asked that the parties explain their positions again and in effect bargain was the rather standard statement of opening the meeting. I believe he indicated that it had been called under his auspices, if my recollection is correct.

At this point or about this point Mr. Nelson representing the IWA handed me a written statement across the

bargaining table and with some comment that before we went ahead with the meeting we should probably consider it, that written document, read it.

I did read it. I cannot quote it for you, but it was a statement of—

Q. (Interrupting) Well, we will offer that in evidence. Did you make any reply?

A. In view of the nature of what I read and then Mr. Hartley, just before I responded, Mr. Hartley read a letter. He did not hand me one because he pointed out that it was a letter that I had previously seen. It had been previously handed to me at a prior meeting. So he just read it indicating that it was their position also and I recall commenting that I guess the meeting is over.

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[Tr. 785] Q. (By Mr. Prael) I will ask you, Mr. Wyatt, if you will read R-163 and see if that was the statement that was handed you by Mr. Nelson at that meeting on that date?

A. Yes, it appears to be substantially the same statement.

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Q. (By Mr. Prael) Can you tell us what happened next after you made your statement?

A. Yes. In view of what I read in the statement you just showed me and the statement read by Mr. Hartley, that if that was the unions' position, the meeting was indeed over because as an Association it was the only way in which we could meet and ever had met.

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[Tr. 786] Q. (By Mr. Prael) Mr. Wyatt, I will show you R-215, and ask you if that was the letter read by Mr. Hartley at that meeting?

A. Is this R-215?

Q. Yes, that is R-215.

A. I believe it is.

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Q. (By Mr. Prael) Now, coming back again, what happened after you said well, I guess the meeting is over or words to that affect?

A. Well, we had some discussion about the possibility of proceeding and I think the statement was made by the conciliator to the effect that we were here to bargain a settlement and we [Tr. 787] ought to get on with that rather than to adjudicate in advance some matter that was before the National Labor Relations Board.

Shortly thereafter, or at about that time, I asked for a caucus and we went into a caucus of employers.

I might add to my recollection of the meeting, it has just come back to me, this meeting really started out by a question from the union as to who all of the lawyers were in the room and who they represented and they asked some questions about who Mr. Lubersky represented and I said that he represented Crown and there was some other questions about the attorneys.

Q. There was more present than the bargaining committee or the negotiating committee?

A. Yes.

Q. Will you proceed.

A. We took a caucus to consider if there was any basis upon which we could continue the meeting and we had considerable advice from counsel at that time——

Q. (Interrupting) What did you do?

A. What did we do in the caucus?

Q. In the meeting after you had a caucus?

A. We developed a statement in the caucus and I was directed by the negotiating committee to hand this statement to the chairman of the union committee or the union committees.

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[Tr. 788] Q. (By Mr. Prael) I will show you R-164 which is a handwritten statement dated July 15, 1963, and ask you if you will read that please.

[Tr. 789] A. I have read it.

Q. Is that your handwriting?

A. Yes.

Q. Is that the statement that you handed to Mr. Hartley and Mr. Nelson?

A. Yes.

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[Tr. 790] Q. (Mr. Prael) After you delivered this statement to Mr. Nelson and Mr. Hartley, will you tell us what happened then, as near as you can recall, at the meeting of July 15, 1963?

A. Oh, I said something to the effect that there is a basis on which we can proceed and the union representatives looked over the statement and Mr. Nelson made the comment that apparently we had exchanged some self-serving documents and that we probably should get on with the bargaining and clear the lawyers out of the room and perhaps we could make some progress.

I asked the question as to whether my acceptance of the Association's acceptance of his letter, the one he had handed to me, was contingent on, or our proceeding, was contingent upon my acceptance of those contents of his letter, and it seems to me his answer was that they were, that all three of them were self-serving statements and I presume that he was referring to the statement, the one that was read by Mr. Hartley, to make three.

Q. As well as Exhibit 163 and Exhibit 164?

A. I have forgotten the numbers but the letter that he handed to me and the response that I gave to him and the exhibit made by Mr. Hartley would make three, and his comment was that [Tr. 791] they were self-serving statements and there was nothing in them to require anybody on the other side to agree with them, they are statements and why don't we get on with the show and I said well, that isn't quite, that doesn't quite satisfy me, that I cannot proceed except as an Association of six companies bound together as they have been ever since this bargaining started and words to that effect.

I took a small caucus and I remember we went over in the back of the room without leaving the room and talked to counsel.

Then I asked the members of the negotiating committee,

the six men to join me outside; rather, take the whole group. I took them and in effect said that you have heard the discussions, the by-plays—

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Q. (By Mr. Prael) After the caucus what happened?

A. After the caucus I came back and we proceeded to make a proposal, a bargaining proposal with respect to all of the issues between the parties; a bargaining proposal designed to settle all of the issues between the parties.

[Tr. 792] Q. Did you submit a written settlement agreement; the suggested form?

A. Yes, the proposal that we made as of this date was couched in the form as a suggested agreement to settle.

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Q. (By Mr. Prael) Mr. Wyatt, I will show you R-38. Do you recognize that?

A. Yes.

Q. And what is it, is this the written proposal that was submitted to IWA at this meeting of July 15?

A. Yes, this is the proposal I made orally, and spoke from this, making this proposal, and I did furnish it to the union committee in what appears to be substantially this form.

[Tr. 794] Q. (By Mr. Prael) I show you R-39, Mr. Wyatt. Do you recognize that?

A. Yes, I do.

Q. Is that the other document handed by you to the union's representatives at this meeting?

A. R-39 is the one that I handed to the representatives of the Lumber and Sawmill Workers, and R-38 was the one supplied to the International Woodworkers.

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[Tr. 795] Q. (By Mr. Prael) What further do you recall about the discussion or argument, offers made, at the meeting of July 15, between the committee representing the Association on the one hand, and the representatives of the IWA and the LSW on the other hand?

A. I discussed this proposal pretty much point by point, laying emphasis on the parts of it that I considered important to draw to the attention of the committees, the union committees. I urged its acceptance on behalf of all concerned.

I used estimates as to its cost to these companies. I pointed out the number of offers the Association had by now made, beginning on April, whatever it was, up until this date, and urged its full consideration and acceptance by the unions.

I don't suppose you want me to repeat all of the speeches?

Q. I would like to have the subjects covered.

A. I covered each of the subjects that were in the proposal.

May I refer to it?

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[Tr. 796] Q. (By Mr. Prael) Refer to it, if you need it to refresh your recollection.

A. I noted that we had made a proposal as to a way to get at the travel time problem that had been a headache. I pointed out that our, some of our desires had been dropped from this in the hope of getting on the way and we had increased the wage proposal and that I considered it a real responsibility of the unions to give it a full and complete consideration and certainly urged them to accept it.

I can't recall any more specifics than that, except to admit that it was probably lengthy.

Q. Then what further happened? Did the union reply; who was the spokesman?

A. The union had some questions about it and asked those questions—I can't recall any of them specifically. I can recall some discussion that I had with George Cassidy, who was a representative of the Lumber and Sawmill Workers, who was very concerned about the money problem, that is, the wage offer. He felt that we hadn't done nearly as well as ought to be done for these people.

It was this sort of a discussion, about the pros and cons of it, and I cannot recollect, as such, whether we, whether this offer was rejected or turned down on that day, but I

think it was because I recall no other meeting subsequent to that and certainly the offer was not accepted, so I guess I [Tr. 797] am concluding it was rejected on that July meeting. My recollection is not specific on that point.

Since there was no meeting to my recollection between July 15 and the time we got settled, I assume that it was rejected that day, probably after a union caucus.

Q. That is as nearly as you can recollect the time?

A. That is as nearly as I can recollect.

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Q. (By Mr. Prael) Have you told us what you can recall at the present time of the meeting of July 15?

A. Yes, I believe I have.

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Q. (By Mr. Prael) I will show you some notes, three sheets of paper with handwriting that has been identified as R-37, and ask you if you recognize that. Is that your handwriting?

A. Yes, that is my handwriting.

Q. Are those notes that have to do with this meeting of July [Tr. 798] 15?

A. Yes.

Q. They were made by you at the time?

A. Yes.

Q. Would you look at them, look them over, and see if they refresh your recollection with respect to the events of July 15?

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Q. (By Mr. Prael) Yes, as to anything else that you haven't already testified to.

A. Yes. There is just one thing that I would add by reason of looking this over that I haven't already mentioned, and that was, I did mention it but I wasn't sure about it.

It does appear that this offer was rejected from those notes and my memory is refreshed to the extent that I know that the offer was rejected in that meeting. I made

the notes myself that they were unable to accept, were unable to join in a recommendation; "and you have presented your proposal", you means me, the chairman of the Association, of the bargaining committee, "you have made your proposal as a package and to accept and reject and that leaves us, the union, no alternative except to reject and we do reject."

Q. I will show you R-351, which has been marked for identification as notes prepared by Mr. Boddy as secretary of the [Tr. 799] Association, of the meeting of July 15, 1963, and would you look at those and do these refresh your recollection as to anything further regarding the meeting of July 15 to which you have not already testified?

Now that you have looked at R-351, is your recollection refreshed as to any further matters not heretofore testified to about the meeting of July 15?

A. Really, only to the extent of more detail about the things I have already testified to. I recall certain statement more specifically.

One statement refreshes my recollection to the extent that after the exchange of letters and the discussion about these letters, I said one way to solve this problem might be that we both withdraw the letters and proceed that way, and that the union didn't think was a good idea and they said there was nothing in here to accept, the position we had set forth, and I turned to Mr. Hartley and I said, "Is that the position of the LSW, also", and he said "Yes, that is right".

It refreshes my recollection as to some of the specific details of that offer, the settlement offer that we made that day which I couldn't recall without rereading those notes.

Q. It covers in general the same subjects?

A. Yes, it does.

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[Tr. 801] Q. (By Mr. Prael) Mr. Gundvalson is an official of the IWA?

A. Yes, he is.

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[Tr. 804] Q. (By Mr. Prael) Mr. Wyatt, do you recognize R-41?

A. Yes, I recognize it.

Q. What is that, Mr. Wyatt, the document consisting of two [Tr. 805] pages?

A. It is a letter written by Mr. W. H. Robertson.

Q. Who is Mr. Robinson?

A. Mr. Robinson is now deceased. He was at the time of writing this letter, the manager of the Longview Branch of the Woods Products Division of the Weyerhaeuser Company.

Q. Was this letter sent to the employees of that branch on or about the date that it bears?

A. Yes, it was.

.

[Tr. 806] (By Mr. Prael) Mr. Wyatt, I show you R-46 for identification, and ask you if you recognize that.

A. Yes, I recognize it.

[Tr. 807] Q. And what is that?

A. A letter written by Al Kronenberg, manager of the Springfield Branch, Woods Products Division, Weyerhaeuser Company, to "All Employees", outlining events that took place at the meeting of July 15 between the Association and the union.

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[Tr. 814] Q. (By Mr. Prael) Mr. Wyatt, were there further meetings with representatives of the IWA in which discussion was had of the dispute on wages, hours and working conditions between the Association and IWA, or were there further meetings after the meeting of July 15?

A. Yes, there were.

Q. Can you recall when the next such meeting occurred?

A. I think the next two were August 12 and 13.

Q. Who met on August 12?

A. Both unions and the Association and the conciliation service was represented.

Q. Prior to August 12, did you have any meetings with Mr. Nelson?

Mr. Byrholdt: Between what period of time?

Mr. Prael: Prior to August 12 and after July 15.

A. I don't recall any dates of meetings. This was a period of time that I talked to many people many places. I cannot recall right now whether I met with or had conversations with Mr. Nelson prior to August 12 or whether it was on August 12 or 13. I think there must have been a meeting prior to August 12, however. I can't recall the dates.

[Tr. 815] Q. (By Mr. Prael) Do you recall having a meeting with Mr. Nelson and Mr. Hartley together prior to August 12?

A. Yes, there was one meeting I can recall was with the negotiating committee of the Association one evening. The negotiating committee itself met with Mr. Nelson and Mr. Hartley in Portland.

Q. Can you fix the date of that?

A. No, I cannot, except to say that it was in early August, between the 2nd or 3rd of August and the 12th of August. It was somewhere in that period, the first 10 days or so of August.

Q. And present were the negotiating committee?

A. Yes.

Q. That represented the Association bargaining, is that correct?

A. Yes.

Q. And representing the IWA was whom?

A. Mr. Nelson and Mr. Hartley were there.

Q. Mr. Hartley would be representing, acting as an officer of LSW?

A. Yes. I don't recall now whether there was anyone else there representing the unions. I don't know. There were the six of us, I recall.

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[Tr. 816] Q. (By Mr. Prael) Can you answer that question?

A. Yes.

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[Tr. 817] Q. (By Mr. Prael) Were any offers or counter-offers or statements of position made during this meeting?

A. I don't recall any specific offers of counter-offers, no, sir. There were discussions of position; the problems.

Q. Was there a discussion of the economic and contract issues which you have testified were discussed and negotiated in preceding meetings between the committee, the committees, on the one hand representing the unions, and the committee representing the Association?

A. Yes, there were such discussions.

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[Tr. 818] Q. (By Mr. Prael) Was there any discussion of, or statements made at this meeting, regarding the status of the Association as a multi-employer bargaining group?

A. Not to my recollection, there wasn't, no.

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[Tr. 819] Q. (By Mr. Prael) Were there any further meetings so far as you know with Mr. Nelson prior to August 12, 1963, other than the meetings that you have testified to?

A. Well, again the dates. I can't pin them down as to a specific time. There was another meeting or another conversation on the problems.

Q. Can you distinguish this meeting from the other meetings testified to by who was present?

A. There was a meeting at which Mr. Boddy and Mr. Witt and I discussed briefly with Mr. Nelson the problems that the unions and the committees had before them and I would place that before August 12 and not at all different than many other discussions with respect to how far apart we are and how we were [Tr. 820] going to get it together.

Q. Now, I take it that during this meeting there was a discussion of these economic and contractual issues which were in dispute between the Association and the IWA as testified, is that right?

A. Yes, sir.

Q. And during that meeting, was there any discussion of or statement made regarding the status of the Association as a multi-employer bargaining group?

Mr. Roll: Same objection.

Trial Examiner: Overruled.

A. Not to my recollection, no.

Q. (By Mr. Prael) Now, I believe you already said there was a meeting of the respective committees on August 12?

A. Yes. There was a meeting of the full committees of all parties, all three plus the Conciliation Services.

Q. By all three, you are talking about the——

A. (Interrupting) IWA, Lumber and Sawmill Workers and the Association.

Q. Was there more than one meeting on August 12 with representatives of the union?

A. I don't know whether another meeting was held on that day. I recall having, I would—I don't know what days they were in that particular period of time, but may I state my recollection?

Q. Yes, do.

A. Which is that I believe on August 12 there was another [Tr. 821] meeting, perhaps more than one, in addition to the meeting of the full committees, in which we were attempting to find common ground on the various remaining differences between the parties and try to put together something we could settle on.

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Q. (By Mr. Prael) Prior to this time and in the month of August, was any decision reached by the Association regarding the shutdown plants?

A. Yes.

Q. When was that—approximately when was that decision made?

A. Approximately and I can't be certain of the date, but it was approximately the second of August.

Q. And how was that decision made and by whom?

A. The decision was made by the negotiating committee which I should point out by then, with only one change in name, was being referred to as the executive committee of the Association. We really had two committees then. The bargaining, the negotiating committee was as I stated it. The executive committee was the same except Mr. Haselton definitely was the representative of St. Regis on the executive committee and Mr. Leeper was very definitely the representative of U. S. Plywood and [Tr. 822] they were the representatives on the executive committee.

Q. Tell us what happened on August 2?

A. If that was the date and I believe it was, this committee, this executive committee with full representation of each member company, each member determined, decided on a course of action to reopen the unstruck mills and the struck mills; in other words to make work available at all mills of the Association member plants and work of course was always available at the struck plants and we were making it available at the unstruck—we determined to make it available at the unstruck plants at that meeting.

Q. Were all six companies represented at that meeting?

A. Yes, they were.

Q. And what steps were taken thereafter pursuant to that decision?

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A. I think the second was the right day. Yes, a letter was prepared by various counsel of member companies of the Association which letter was forwarded, which letter would advise the two international unions of our intention to take this action. I was instructed to mail this letter as of a certain specific time. I am trying not to appear mysterious about this and a lot of things were going on at this time having to do with various strikes and settlements

and statements by other industry [Tr. 823] segments and my instructions were given to me to see that these letters were prepared in accordance with the draft that had been approved by the committee and as of a certain time to put them in the mail.

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Q. (By Mr. Prael) I will show you R-221 and ask you if you recognize that, Mr. Wyatt?

A. Yes.

Q. What is that? Is that the letter that was prepared at that time and sent to Mr. Nelson?

A. It appears to be a photostatic copy of a carbon of that letter; yes, this was the letter.

[Tr. 824] Q. And it was sent to Mr. Nelson on or about that date?

A. Yes, it was.

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Q. (By Mr. Prael) I show you R-220 which appears to be a copy of a letter address to Mr. Hartley.

A. Yes, this is a copy of that letter.

Q. And that was signed by you and sent to Mr. Hartley on or about that date?

A. Yes.

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Q. (By Mr. Prael) Referring to R-220 and R-221, I notice that you signed this Chairman of the Association Bargaining Committee? Were you holding that position at that time?

[Tr. 825] A. Yes.

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Q. (By Mr. Prael) I notice that your letter states that effective at the beginning of the day shift on August 7, 1963, work will be resumed at the woods and plant operations of

all Association members which were shut down. This work will be available for the employees of all Association members.

A. It is, "Work will then be available for the employees of all Association members." and here I had reference to the fact that it was always available at the struck plants and I added the unstruck and it would then be available at the plants of the six companies.

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Q. (By Mr. Prael) Was there a release to the press prepared on or about this date?

[Tr. 826] A. Which date are you referring to now, counsel, the second?

Q. The early part of August, August 2nd or August 4th?

A. Yes, around that period—I don't think it was around the second, I think it was more likely Monday, the fifth. But, we did prepare one over that period of time, over that weekend announcing—it is not responsive.

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[Tr. 828] Q. (By Mr. Prael) I will show you 362 and ask you if you recognize that as a draft of the announcement that you were referring to in your testimony a moment ago?

A. Yes.

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Q. (By Mr. Prael) I will show you R-363. Was that further announcement prepared about that time?

A. Yes, it was prepared about the same time.

Q. And used for what purpose?

A. For the purpose of instructing representatives of all member companies, large number of representatives, production [Tr. 829] people, plant managers, personnel people and so on, whom we were bringing together at that meeting, on I think, I believe August 5 to advise them of the action we had determined to take as of August 7. This

was a skeleton outline in order that we could be very specific about what was, what instructions were given to the mill people.

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[Tr. 835] Q. (By Mr. Prael) I show you 362-A and ask you if that was the final form of that announcement prepared on or about August 2, or 4, whatever the date was that you testified to in this session yesterday.

A. Yes.

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Q. (By Mr. Prael) Mr. Wyatt, this announcement refers, it states that Wyatt indicated that the Association took this step upon review of recent development involving other industry firms and the two unions.

What were those developments?

A. Well, there were a number of factors that went into the decision, but the developments to which I had reference there were the announcement, public announcement by the T.O.C., the Timber Operators Council, to the effect that they had recommended to their membership that the terms of their last offer be unilaterally installed or put into effect by the operators, [Tr. 836] by the employer members of the T.O.C.

Q. You say the last offer of the T.O.C. is represented by certain timber companies—

A. (Interrupting) A large number of operators were members of T.O.C. and a large number of those were bargaining through the T.O.C., and there had been a public announcement by T.O.C. that they had advised, well, I believe the announcement was that their executive committee had approved a recommendation to the membership to all install the terms of their last offer by declaring an impasse and putting into effect, as I recall, it was some 26 cents an hour total package, and they had decided to unilaterally implement that offer.

The other was that Georgia-Pacific, a large independent, was then on strike; Edward Hines, a large company was

then on strike, as I recall, and I believe that Pope and Talbott were on strike, and at or about this time there were additional strikes in the industry.

Q. Were there any settlements at that time? What was the date?

A. This came about, as I recall, around the 5th.

Q. You refer now to 362-A?

A. Yes. It came out around the 5th of August, as I recall, the various developments I refer to, if I am recalling them correctly as to point of time, was up to and including that week-end of August 3 and 4, 2, 3, and 4.

[Tr. 837] Q. You say that—you referred that various factors went into the decision of the Association. What were those factors?

A. Well, I have mentioned, well, there was one other development. There had been a settlement, at least one settlement, by these unions, by the IWA, at least with Simpson Timber Company. That had happened and the factors were our review of all of these developments on the part of the executive committee of the Association, attempting to assess the effect of these external developments, if you please, on the position we had taken in order to preserve the integrity of our Association, to begin with.

We determined that about this time that the shutdown, in view of what was happening around us, was probably not either required or desirable to accomplish that original purpose. Earlier in the game, back in June 4 or 5, the executive committee of the Association voted unanimously to take this action.

Q. At that time were the negotiations at a stalemate?

A. Yes, we considered that bargaining as we could see it with the unions was going on around us rather than with us. It seemed to be taking place with any number of other factors and it appeared that the position of the unions was really to, in effect, surround us. We felt that we were stalemated and on dead center and that being the practical bargaining situation that this was still another factor that we ought to get back into the game and there wasn't any point in—of course, in [Tr. 838] taking the action, I think it is important to explain that we really had no way of

knowing whether our operations would, in fact, run by reason of our discontinuing the voluntary nature of the close-down. They could have been picketed, we didn't know which ones would or might.

The position we took, as indicated in the letters introduced yesterday, was what I already said, plus simply saying that work was available at all Association member plants, it always had been available at the struck plants, and we were now making it available at the other plants. In view of the progress of bargaining, it seemed that no useful purpose, in our mind, was then being served by continuing to keep the plants closed as a voluntary employer action.

Q. I will show you R-221 and R-220, which are, seem to be identical letters, dated August 4, 1963, sent to you, Chairman of the Association bargaining committee, one to Mr. Nelson and one to Mr. Hartley, and referring to the second paragraph which states, "It is the intention of the Association that beginning August 7, 1963, employees may work and be compensated on the basis of wages, hours, and conditions of employment in effect on May 31, 1963". May 31, 1963, why was that date selected?

A. That was the pre-strike rate.

Q. As modified by the offer made by the Association to the union bargaining committee in bargaining on July 15, 1963? Would that mean an increase in the wages of the employees re- [Tr. 839] turning to work?

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Q. (By Mr. Prael) Would you explain the effect of that?

A. Well, the effect was, taking a position that an impasse had occurred on or about the July 15 meeting when we made that offer and it was our intention at the conclusion or at the time of the first pay period or the first time that anyone was paid for any work that they may perform as a result of returning either to a previously struck or unstruck plant, that they would be paid in accordance of the terms of the offer made on July 15.

Q. The next sentence, "Will you please notify us of your

position in regard to this matter within ten days", during that ten-day period was any announcement made of this intention to pay the increased rates proposed on July 15?

A. Not by the Association, no, nor any member company employee thereof, to my knowledge.

Q. The last paragraph, "We will not publicly announce or notify employees of the contents of this letter except to [Tr. 840] announce resumption of work until after your organization has had a reasonable opportunity to consider it between now and the close of business on August 15, 1963". Was any such public announcement or notice given to the employees?

A. No, not to my knowledge.

Q. You know now, don't you?

A. We took exceptional steps, I should say, to avoid it ever happening. I cannot certify that there may not have been somebody somewhere who made some sort of a leak, but we made a colossal effort to avoid it.

Q. Now, notice of the opportunity to return to work was given all employees, I take it, by the employing companies?

A. To the extent physically possible, yes. We used every means we knew of or any individual plant was aware of to get notice that work was available at all Association member plants.

Q. When the men returned to work, when and if the men returned to work as a result of this decision by the Association on August 7, did the Association committee decide what the men should be told that they would be paid at that time?

A. Yes.

Q. What was it?

A. They were to be told that they would be paid their pre-strike rates, or the rates in effect as of May 31, 1963.

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[Tr. 841] Q. (By Mr. Prael) I will show you R-181, which has been marked for identification. It is a notice which indicates it was signed by Mr. Kelsey. Do you remember that signature?

A. Yes.

Q. Dated August 5, 1963, and it stated what the men will be told as I understand it, if they receive inquiries upon their return to work, is that correct?

A. Yes. This was pursuant to an executive committee decision that in the event of any inquiry all management personnel were to be instructed that the wage rates were those in effect prior to the shutdown.

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[Tr. 852] Q. (By Mr. Prael) Tell us where the meeting took place.

A. The Masonic Temple in Portland, Oregon.

Q. What time did it begin?

A. I believe it started in the afternoon.

Q. Who was spokesman for the Association?

[Tr. 853] A. I was.

Q. Who was spokesman for the IWA?

A. Mr. Nelson.

Q. Who was spokesman for the LSW?

A. Mr. Hartley.

Q. Who was the speaker for the conciliation service?

A. It is my recollection that both Mr. Walker and Mr. Smith were present.

Q. Would you tell us what happened at that meeting?

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A. It is my recollection that the meeting opened with a statement, very early in the meeting, if not in the very beginning, a statement by both union spokesmen calling my attention to the fact that they were meeting subsequent to the same statements they had made at the last meeting, which would have been the meeting of July 15 and had reference to the letters or positions they had previously taken relative to the Association as such.

I said what do you mean by that, break it down for me, and one or another of the conciliators said, "Now, we have been all through this at the last meeting and I assume that you are [Tr. 854] all referring to the letters that you exchanged on July 15, and no one is being asked to agree

with anyone else's position", and Mr. Nelson, as I recall, said "Yes, that is right, nobody needs to agree with what we said, but we want it understood that our letters are in effect". I said, "I want it understood that ours is, too, and there is only one basis on which we can be here and continue this meeting, and that is as an Association composed of six members and not as six individual companies.

With that there was some more discussion of this general subject matter, and not very much more, and we agreed that nobody had to agree with the other's position, but we ought to get on and bargain.

At that point I made reference, I believe, to other things that I knew were going on. They were known publicly, had been announced by various other factors in the industry, that certain settlements had been made and so on, and I made reference to these and said that I would be less than honest if I didn't say that they were extremely disappointing to us that these incidents had taken place around the Association, and I believe I made special reference again to our seven-day three-shift request, said that I noted that that had not been a part of some of the other settlements that I had noted and that was an extremely important item to the Association, and to Weyerhaeuser Company.

[Tr. 855] I said that all of this put us in a very serious and critical position as I saw it right at that moment on August 12. We were not unaware of what was going on, or what had gone on, and yet we are still anxious to settle and settle on the basis that made some sense for the long-range interest of the employees and for the Association, and so on, and I asked, after not too long a meeting, as I recall, I asked for a recess until the next morning.

It was agreed to, as I recall. There was a statement by the union, one of the unions, to the effect that they would agree to the recess if we were really using it to come to a basis for settlement. If not, if we were only stalling, they might just as well meet with others, because frankly, the pattern was pretty well set and the settlement, additional settlements were going to be made.

I said something to the effect that I assure the unions that the Association and its executive committee would use

the time wisely and constructively and in an effort to come up with a satisfactory solution.

I did ask for a recess and we recessed.

Q. (By Mr. Prael) Have you exhausted your recollection as to the meeting of August 12?

A. Yes.

Q. I will show you R-352, which are the minutes prepared by the Association secretary of that meeting. I will refer you to [Tr. 856] the part of R-352 under the date of August 12, 1963, and I will ask you if that refreshes your recollection as to any particular matters that occurred at the meeting of August 12, 1963, to which you have not already testified.

Does that refresh your recollection in any respect as to any additional occurrences?

A. Only to the most minor additions to the general subject matter that I mentioned. I note that the hours of labor, rather than as I said it, that I raised the question of disappointment in the other settlement, I note that Mr. Nelson pointed out to me in connection with the uniformity in the other settlements was not disturbed and didn't want us to have any doubts on that point.

I note that we apologized for being late. We apparently scheduled that meeting for 1 o'clock and I didn't arrive until 3.

Q. You referred to other settlements. What companies were involved in other settlements? Can you name them?

A. I can name, I am not sure that I can hit them all. Georgia-Pacific had settled——

Q. (Interrupting) Georgia-Pacific had settled?

A. Yes.

(Continuing)—and I think Edward Hines had settled, and I believe that Williamette Valley, Santiam, and I am quite sure that those four or five had settled, and there may have been [Tr. 857] some others. I think that approximates it.

Q. After that meeting, was there a meeting of the representatives of the companies and the Association in which this matter was considered, the position of the Association determined?

A. Yes, indeed there were.

Q. What happened?

A. Well, of course, a very considerable and far-ranging, on the discussion on the situation we found ourselves in in view of these other settlements, and settlements that might be made shortly. There was a general feeling expressed, there was a feeling expressed by most members of the Association executive committee that the changes we sought in hours of labor were not going to be realized.

If we were seriously wanting to settle this situation, the hours of labor issue would have to be dropped from our next settlement proposal. There was a difference of view with respect to this matter debated at some length and finally resolved by taking a vote and the Association executive committee voted 5 to 1 to discontinue seeking the hours of labor proposal.

That was the most significant thing, other than putting together the bones of an over-all settlement, the difficult part of which was determining whether our long seven-day week would be in our settlement offer or out.

Q. After that vote, what was the position taken by the union [Tr. 858] on the Association's hours of labor proposal made?

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A. Our next offer to settle did not include or carry our previous requests in this regard.

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Q. (By Mr. Prael) Coming back to that decision, you say that the vote was 5 to 1?

A. Yes.

Q. Which company was the "1"?

A. Weyerhaeuser Company.

Q. Now, was there any further discussion and decision to be reached before the next meeting with the representatives of the two unions?

A. Before the August 13 meeting?

Q. Yes.

A. Well, there were still a lot of discussing to do on, particularly some of our openings, as to how far, at this stage of the game, how far we were going to push and how insistent we were going to be, and were we willing to let the strike situation go on over any one of any number of points, and also, on the difference between the difference in wages.

Q. When was the next meeting with the full committees repre- [Tr. 859] senting the three parties, the Association, LSW, and the IWA?

A. On the morning of August 13.

Q. Were proposals and counter-proposals made at that meeting?

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Q. (By Mr. Prael) Can you give me a yes or no answer to that question?

A. Yes, there were proposals and counter-proposals made.

Q. Will you tell us what happened at that meeting, as nearly as you can recollect?

A. We made—this is a rapid summary, without detail.

The Association made an offer. There was discussion of the offer, there was caucus by both sides. There was a counter-proposal by the union; there was further caucus, further discussion, and finally an agreement between the parties to settle the dispute.

Q. Was the agreement finally settled on the basis of a final offer by one party or the other?

A. I think I would describe it as saying that our original offer on August 13 was described by the union spokesman as being very much in the ball park, we were close, and their counter-proposal—

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[Tr. 860] A. (Continuing) —and in their counter-offer they suggested relatively minor changes and understandings.

In particular, I should mention that they came back to

the question of pensions, which had been opened by reason of prior bargaining by two Association member companies, and since one of our elements of our proposal was closing all local openings, I was asked whether we were going to be willing to bargain pensions locally by Weyerhaeuser Company and St. Regis, were they opened, and I replied in the affirmative.

Q. (By Mr. Prael) Those were the only two companies with that which were involved?

A. Yes, and are we going to pay 4th of July holiday pay, the 4th of July having occurred while the dispute was going on.

I have overlooked an item. It seemed to be of particular interest to the LSW about pro-rata vacation pay at the time of retirement and it was a minor enough item that had gone out of my mind, and they said, "Did you mean to exclude that", and I said "no, it was an oversight. We intended to do it".

The point I am making is that they were not insignificant but they were relatively minor compared to the other problems before us, and the unions pointed them out.

We went back and they did propose a little change in the wage formula. When you say whose was the final offer, we made it and they suggested modifications and we came back and agreed [Tr. 861] to the modifications and then there were some more little things at the end; did we mean this or that or the other thing, and finally we said we are in pretty good shape and turned it over to the writing company and considered this over.

Q. Were these offers and counter-offers by the Association to the IWA and LSW, on the one hand, and on the other hand, counter-offers which both unions made, or was there individual bargaining with each union separately?

A. The settlement proposal was made to both unions and the counter-proposals were single counter-proposals.

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[Tr. 862] Q. (By Mr. Prael) In these proposals back and forth on the 13th, as I understand it your testimony is that

finally there was a general meeting of minds and it was turned over to a writing committee.

A. Yes.

Q. Was that on the 13th?

A. Yes.

Q. At any time before the final agreement was signed, was any proposal made by any party regarding the terminations or closing out of the unfair labor practice charges? I am referring to the unfair labor practice charges filed in these two cases.

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A. I made a proposal of certain language that I would like to embody in a settlement agreement. In proposing it, I was concerned with the unfair labor practice charges. In the context of the question I did not suggest the termination of the charges or ask that they be withdrawn, or anything of this kind. I did suggest settlement language to go in the closing [Tr. 863] paragraphs of the settlement agreement which was designed to establish the validity of what we were doing and had been doing, and all the unions and the Association had been doing, and that suggested language was rejected.

We went on and settled without it.

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Q. (By Mr. Prael) I show you R-222, which has previously been given that identification number. It is a document with the heading of "Settlement Agreement", and is dated August 13, 1963, consisting of six pages, and I ask you if you recognize that as a copy of the agreement entered into on that date between the Association and the IWA and LSW.

A. It appears to be a copy of that settlement agreement, yes.

Q. On the last page for the Association it has "By F. L. Wyatt, 8-14-63". Did you sign it for the Association?

A. Yes.

Q. Did you sign it on the 14th?

A. Yes; it was after midnight of the 13th, so I dated it the 14th.

[Tr. 864] Q. Mr. Hartley signed it for the Western Council of Lumber and Sawmill Workers?

A. Yes, sir.

Q. And Mr. Nelson signed it on behalf of the IWA?

A. Yes, sir.

Q. And it was attested to by two Federal Conciliation people, Mr. Smith and Mr. Walker?

A. Yes, sir.

Q. Those are all of the signatures on the agreement?

A. Yes, sir.

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[Tr. 870] Q. (By Mr. Prael) Let's go back, Mr. Wyatt, sir. You testified, I believe, generally as to your recollection of the meeting of August 13, 1963. If I am not correct on that, sir, please correct me.

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A. Yes, I testified as to my very general recollection as to the meeting. I thought that was the sense of the question.

Q. (By Mr. Prael) I will show you R-352, and referring to the material under date of August 13, 1963, would you look that [Tr. 871] over, please, and tell me if that refreshes your recollection as to any further details of the meeting of August 13, 1963, and the events of that day which you have not already testified to?

Q. (By Mr. Prael) After referring to the minutes of August 13, 1963, did that refresh your recollection?

A. Yes.

Q. As to further details that you have not already testified to regarding the meeting of August 13, 1963?

A. Yes.

Q. Would you state what your recollection is at the present time?

A. May I state first that in my previous testimony I referred to some things that occurred in and out of the general meeting.

Q. Yes.

A. (Continuing) This refreshes my recollection as to the meeting of the full committees of both unions and the Association and the conciliators to this extent: I did open the meeting, or rather Conciliator Walker opened the meeting by stating that he understood the employers had a suggestion to make, and I replied that we did and proceeded to make an offer for settlement of the issues.

[Tr. 872] Roughly, the offer was 10 cents per hour, effective June 1, 1963; a 2 cent bracket adjustment for skill classifications pursuant to lists of the specific jobs, number of people in them, and amounts of increase on a company-by-company operation-by-operation basis. I proposed a travel time formula indicating that the parties would agree on marshalling point, and so on, and in any event, that a 4 cent an hour on the woods payroll would be spent in a travel differential formula and 6 cents an hour effective 6-1-65, and I believe I overlooked 4 cents an hour effective December 1, 1963.

I indicated the need for language to protect us against concerted refusals to work overtime. I indicated we would participate in a joint committee to discuss automation, mechanization, and other general problems in the industry.

I suggested that all local issues which had been discussed earlier in the negotiations be closed as part of the settlement.

As this point I was asked a number of questions relative to details by both the spokesman for the IWA and the spokesman for the LSW. These questions included a question as to whether Weyerhaeuser would proceed to implement its agency shop provision, which question was borne of the exclusions we talked about earlier, I mean the statements by the Association that we would keep certain subject matter off the Association table and bargain it locally, and one of them was union security. [Tr. 873] I believe, as I testified earlier, one of the reasons for not discussing it as the Association level—in fact, the reason—was that everybody had a union shop, except Weyerhaeuser, who had a prior agreement to install a shop when and if it became legal by the Supreme Court.

Mr. Nelson asked me in view of the fact that you are employing local issues in your proposal, we assume that you intend to proceed to bargain to that agreement on agency shop and carry it out and I said that we did. He asked a similar question relative to pension matters between St. Regis and Weyerhaeuser—and the same explanation goes here on the pension exclusion or desire to bargain pensions locally rather than at the Association level.

We pointed out only two companies had pensions open, and they were Weyerhaeuser and St. Regis. Since I suggested closing out local issues, Mr. Nelson said, "Do you presume that Weyerhaeuser and St. Regis will have bargaining discussions on pensions", and I said "Yes".

The question was asked whether, if this proposal was accepted, we would pay 4th of July holiday pay, and I think, I believe I said I would have to caucus briefly on that one; and another question was did we intend to include pro-rata vacations pay for retirees, and I, well, I think I took a caucus on that, too, at that time.

Mr. Hartley asked me, if, since we were caucusing on it, did I intend or would we, one way or the other, include a re-[Tr. 874] tirement under this vacation pay proposal, would we include an early retirement for disability as well as a formal retirement and I said I would have to take that up in caucus.

We did caucus, briefly, this time, I think, and advised the union committees and their spokesmen that the Association had overlooked or that the spokesman had overlooked the pro-rata vacation, strictly as an oversight, and we would pay, agree to pay, such pro-rata vacation at the time of retirement, whatever he was eligible for, and if all other elements of the settlement went together, we would be willing to include disability retirement as well as normal retirement, and that we would be willing to include disability retirement as well as normal retirement, and that we would pay, or the companies who had had that voluntary shutdown of their operations, would pay for the 4th of July holiday pay to any employee who returned to work within a certain period of time after the settlement, that we would pay them.

I am trying to get the timing. It seems to me the union then having asked a number of these questions which were on the pension openings 4th of July pay, pro-rata vacation, oh, agency shop, and so on, we did caucus and upon return from caucus, the union spokesman, I believe it was the IWA spokesman, Mr. Nelson, said that our package was in the neighborhood——

I skipped one thing before the caucus, which I don't think is very important, but I did again make mention of the question of hours of labor and said this was an extremely [Tr. 875] difficult thing to come by, that they did not find it in our proposal but that I certainly felt that this was an issue legi-mately before us.

It had been substantially magnified and loused up and probably loused up by the Association chairman as well as everything else, regardless whether it was my personal responsibility of letting it get away, that it was still before us, and we would have to get in grips with it.

We had the caucus and the union came back and Mr. Nelson counter-proposed and there were a couple of significant elements in the counter-proposal that differed from the proposal we had made.

One was that of the pennies, rates that we had offered. I believe on 6-1-65—I believe that was the year—we offered 7 cents, and 6 cents on 6-1-64. Those could be reversed, I am not sure. Whichever year was the 7, the unions counter-proposed and reduced that 7 to 6 and put the penny on the 12-1-63 4 cents that we had offered and made it 5 cents.

So, in short, they had taken a third year or second year penny and made it a first year penny in their counter-proposal and they made quite a point if anything was to go into the contract relative to outlawing or prohibiting concerted refusal to work overtime that it had to work both ways, it had to apply to employers and Association plants—I mean their management—as well as their unions saying, in effect, we want some- [Tr. 876] thing that indicated that it is just as much a violation to this contract for an employer to schedule overtime for a bargaining reason to build inventory or get ready for bargaining, or whatever it may be, or other punitive measures, and that

has to be cleared, that that is just as much a violation as is it for a group of employees to refuse to work for a purpose other than working the overtime itself.

Those were two major, the most major differences in the proposal. I asked some questions relative to the proposal, particularly with respect to travel time, indicating that it was our desire to discuss the various elements of that proposal given that we were obligated to pay specific amounts of money at the specific times as the proposal was then before us, and it seemed to me proper that we be allowed to discuss that subject rather generally between the union and the Association committee prior to the effective date.

There might be lots of things that we could think of to do better between then and January 1, and Mr. Nelson said he didn't want the thing, the discussion, to get so far away that we lost the objective of the thing. He didn't want this labeled, as he put it, bark-picking time, or something, but certainly the parties could discuss the proposal as long as it was understood that we were committed as of a certain point of time.

I indicated that there were changes in the proposal and I felt that I understood them and that we would have to caucus [Tr. 877] to consider it.

Q. Was a caucus then held?

A. Yes, there were quite a number that day, but there was one held at this time, and we considered the unions' position, that is, the changes that they had incorporated in their position, and we again took a vote on whether to accept that counter-proposal, and the vote was passed, 5 to 1 to accept the unions' counter-proposal.

I went in—

Q. (Interrupting) Who was the "1"?

A. Weyerhaeuser.

(Continuing) —we went back in and we were still having some debate on the way we could assure the unions that the concerted refusal to work overtime proposal was really effective to both sides.

I can't recall how we finally did it, but there was, when we went in after this caucus, in addition to saying that the

other changes seemed to be relatively acceptable, we were still playing with that one.

Oh: I was asked whether, I believe it was Mr. Nelson who was the one who asked me, if there was going to be time for the unions to study these bracket lists and to discuss them in the event that there were corrections that subsequently developed. He wanted to know what payroll period those lists and calculations were based on, and I think I said May 15 pay- [Tr. 878] roll would be the one that would be used to determine whether the bracket suggestions we had made did, in fact, conform to the two-cent agreement, and he was saying, in effect, if we find little things wrong with it, can we bring it up and discuss it and I said yes, we could.

There was some question then as to whether these calculations of conformity, you might say, on the bracket list, were on a company-by-company basis, and so on, and there was some little blow-up—that is my word for it, not theirs—something went wrong on the application of the two-cent bracket in certain operations.

It had to do, I don't know how much detail you want, counsel, but this was an impediment that came up at a late hour on the matter of acceptability of this proposal.

Q. Was it finally settled?

A. Yes. We settled it, we managed it, and went on.

I think an additional caucus was required on some sort of wording about concerted refusal, and, I think, on this problem that developed on the application of the brackets.

We again got stalled for a period of time in caucus. It is my recollection that it was—I am not sure, there were too many caucuses.

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[Tr. 879] A. (Continuing) I think the last caucus had to do with the bracket problem, as to its application in certain places. It was essentially a disagreement between locals of the unions, or something, and there was that one and we were concerned with what language we could develop that would accomplish what we wanted in the concerted-refusal-to-work-overtime issue and still be satis-

factory to the unions as to its application to an employer.

Following this caucus I don't recall any other specific issues, other than we had resolved it and had turned the matter over to a writing committee which was to meet that evening and draft the agreement in the terms of this finally-agreed upon set of circumstances.

Q. (By Mr. Prael) That is all that you recall of that meeting so far as your recollection is at the present time, is that right?

A. Yes, it is.

I have one further recollection of that meeting. I closed the meeting by saying that I sincerely hoped that this has been [Tr. 880] a long and profitable association between this Association and these unions.

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Q. (By Mr. Prael) Mr. Wyatt, I haven't had reproductions made of this original from our files and unless there is some need to do so, I don't propose to do so, but I thought I might show this to the witness—

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Q. (By Mr. Prael) Would you tell us how the agreement of August 13, 1963, was prepared?

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[Tr. 881] Q. (By Mr. Prael) In the one I have shown you, Mr. Wyatt, there appears under the designation for the Association, some initials, whose initials are those?

A. For the Association they are my initials.

Q. And under the LSW, whose initials are those?

A. Mr. Hartley's.

Q. And under the IWA?

A. Mr. Nelson's.

Q. There appears "H.R.N." and then there is some initials under the commissioner.

A. LeRoy Smith and George Walker, yes.

Q. In the copy of 222 it appears, instead of initials, that the names are written out, did you sign a later version of this after the first agreement was initialed? Did you sign one after it was retyped on the following day, or do you recall what happened?

A. We had some discussion very late in the evening after the 13th, on the wording and changes in the wording, and it seems to me that we agreed that before we had left that evening we ought to agree as to what the form of this document was going to be, including the various little changes suggested by one or [Tr. 882] another, and we stayed with it and some of this printing that is initialed here appears to be mine. I think I put some of it in.

Q. You are referring to writing—

A. (Interrupting): Let's take the first page. It was typed "Western Sales Regional Council," and obviously meant "Western States Regional Council." I crossed out sales and printed in states with my pen and that appears to be my printing.

Now, under "a three-year ending June 1, 1966," the point was made by somebody that it was "three-year period ending May 31." I crossed out June 1 and printed in May 31, and each of us initialed each of these changes of that type.

It is my recollection—

Q. (Interrupting) This is also a change, at the end—

A. (Interrupting) Yes, on Page 3, at the end of Article II, pursuant to the discussion that we had in the bargaining meeting that afternoon, and evening, and I testified, too, about what was discussed about by these committees on travel time in the woods. It appeared that the language, the typed language in there, that what the writing committee had come up with was too narrow to suit somebody and where we said, in typed words, "A committee comprised of representatives of the Association, of the unions, shall be appointed by the Association and the unions for this purpose," and I, upon agreement with Mr. Nelson, and Mr. Hartley, we added, and this is my printing, "And [Tr. 883] the purposes of discussing other problems re-

lated to the application of the travel-time differential." We all three initialed that.

Then we found in the wording on the concerted refusal to work overtime, that—

Q. (Interrupting) You are talking now about 4-B. Was an addition made there?

A. The writing committee that had been working, I think since 8 o'clock, and this was 4 or 5 hours after that, had come up with language in 4-B which said "such a right granted to individual employees to decline to work overtime shall not be deemed to authorize group refusals to work overtime, to attain a bargaining objective or grievance settlement," and one or the other of the union men pointed out that we had said was, we were talking about a group refusal to attain a bargain objective or grievance settlement unrelated to the working of such overtime.

Q. And that was included in 4-B?

A. I believe I indicated that we did intend that and I believe that is my words, unrelated to the working of such overtime, and all three of us, we all initialed that.

Down under Part 7 on Page 5, Roman numeral VII on Page 5, for some reason I crossed out the word "return" and put the words "report to work." We all three initialed that change.

Then, in order that our understandings would be complete [Tr. 884] whether or not we signed smooth copies at another time, we each initialed this document in the place provided for our signatures. As I remember, it was a very early hour on the morning of the 14th we affixed our initials and said we would meet the following morning.

Q. This Paragraph 6 of 222, or this early version of 222, says "All bargaining issues heretofore opened between an Association member and any local union are hereby closed, except those specified in a separate letter from this date the Chairman of the Association Bargaining Committee to the Union."

Were there such separate letters?

A. Yes.

Q. I will show you Exhibits 223 and 224, and ask you if

these are the letters. You have, I believe, an earlier form of such a letter before you.

A. Yes. This is a copy of that letter that I sent to Mr. Nelson and this is a copy I provided for him, I believe, and one to Mr. Hartley.

Q. And you are referring to Exhibit 224 to Mr. Nelson and Exhibit 223 to Mr. Hartley?

A. Yes, I am.

Q. And they do not bear any date, is that correct?

A. They don't seem to, no.

Q. You have before you an attachment to the early draft of 222, some additional sheets, what are those?

[Tr. 885] A. They seem to be early drafts of 223 and 224. Taking the one marked 223 and comparing it to, taking the one that you have shown me with my signature, my letter to Mr. Hartley, numbered R-223, and comparing it to one of these two attachments, it appears to be identical except that some additional wording has been written in to this early document and that written wording has been typed in to 223. So, these two letters here were looked at by us again, along with this contract, and approved with the change—

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A. (Continuing) The early draft, which is not those numbers, were the documents attached to the original or early settlement agreement are early drafts of the letters, one to Mr. Nelson and one to Mr. Hartley. We changed them that night and initialed them and they were subsequently typed up and are now R-223 and R-224.

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[Tr. 886] Q. (By Mr. Prael) R-225, which is a letter dated August 13, 1963, signed by you, which has been received, as I understand [Tr. 887] it, refers to agency shop provisions under Weyerhaeuser Company. I call your attention to R-369, which is an agreement dated June 22, 1962, which has been received in evidence.

Does it have to do with that agreement?

A. Yes, it has to do with this agreement marked R-369 and the letter marked 225, also, has to do with Article VI of the settlement agreement we signed on August 13.

Q. I believe you already have testified regarding the fact that pensions were an opening on two companies and that was discussed in the August 13 meeting, and assurance was given that those commitments would be carried out.

A. Yes.

Q. That is what that has reference to?

A. This letter says just that, that we consider that we are open and those two companies, on pension and one on union security and that Weyerhaeuser Arcata Branch would complete its 1961 bargaining.

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[Tr. 888] Q. (By Mr. Prael) Mr. Wyatt, I will show you Exhibit B-222 which I believe you referred to as the smooth copy of the settlement agreement of August 13, 1963. What is meant by the words, smooth copy?

A. Well, the one that you showed me before the luncheon recess, that had been changed and initialed and I would call that the rough copy and this was a copy I typed up by the writing committee from that rough copy incorporating the changes set forth in the rough copy and was then presented to the parties for signing.

Q. And when was that signed, the smooth copy?

A. On the morning of the 14th.

Q. It was signed by whom?

A. By me for the Association, by Mr. Hartley for the Western Council Lumber and Sawmill Workers, by Mr. Nelson for the Western States Regional Council of the IWA and attested by Mr. LeRoy Smith and George Walker of the Federal Mediation and Conciliation Service.

Q. In your testimony regarding the negotiations of August 12 and 13, you referred to certain votes taken by member companies of the Association. I am showing you Respondents' Exhibit 206. Was that vote, had pursuant to some agreement [Tr. 889] this is the agreement of April 22, 1963.

A. Yes, it does.

Q. What paragraph does that relate to?

A. Paragraph (5) on page 3; top of page 3.

Q. And you have reference to the provision in there where it says after the company shall bargain collectively as a multi-employer association and each member company shall participate in such negotiations. The next sentence reads, "Whenever any decision must be reached pertaining to such bargaining negotiations, a favorable vote of 75 per cent of association members shall be required." Is that what you referred to?

A. Yes, it is.

Q. I will show you a draft which was the 3/19 draft which has already been identified as R-269. That was in paragraph five of the agreement on page 3?

A. Yes.

Q. And, calling your attention to that draft which was the March 19th draft of the Association agreement, is there a paragraph in that draft which relates to this subject?

A. Yes.

Q. Again, is that paragraph five?

A. Yes.

Q. Is it different in any respect from this one?

A. Yes, it is—well, with respect to the 75 per cent, it is expressed as a three fourths majority.

[Tr. 890] Q. And that last sentence reads, "Whenever any decisions must be reached, it shall be by a three fourths majority vote with each company having one vote?"

A. Yes.

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Q. (By Mr. Prael) I will refer to the draft, I am going backwards I guess, of March 15, 1963 which has been received in evidence as R-268. Is there a corresponding provision regarding the voting of the membership in that agreement?

A. Yes.

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[Tr. 891] Q. (By Mr. Prael) By that, I am referring to paragraph five of the draft which has been received as R-265 in evidence. I trust the reader of the transcript will read that which is paragraph five of that exhibit and tell me when that was changed to the provisions which are in paragraph five of Exhibit 268 which I just showed you a little while ago.

Mr. Byrholdt: If you know.

A. The provisions was changed from the majority of the companies which appeared in the last draft, the paragraph five indicated that a majority vote was required and very next draft which was some week or two later contained a three quarter majority or it was expressed as a three fourths majority and finally in the final draft it was expressed as 75 per cent.

Q. (By Mr. Prael) Can you tell us why the change was made and under what circumstances?

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A. Yes.

Q. What were they?

[Tr. 892] A. They were that originally in the early drafts we were seeking—

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Q. (By Mr. Prael) Now, would you tell us what happened in regard to the change in paragraph five of the various drafts of that agreement?

A. We again with the thought that there might be quite a number of employers, more than six certainly and perhaps more than eight was our intention and under those circumstances and at that stage of our thinking with respect to it, a simple majority might have been satisfactory or would have been. When it began to appear that we might not have such a large group the matter of proportional representation with respect to the employee groups got into the picture or at least was considered in that Weyerhaeuser company had nearly half of the employees of the

Association membership as it was finally formed. There was some discussion about whether voting by members on activities undertaken or positions taken by the Association might not be [Tr. 893] on some sort of proportional formula. Weyerhaeuser representatives rejected that thought on the grounds that it would, could conceivably, if you stayed with simple majority and you stayed with proportional, Weyerhaeuser might alone have veto power and Weyerhaeuser—I should say we, my company considered that undesirable in any association and it was at that time that we felt that the objective we really had with respect to any internal decision making procedure was to establish that no one company could negotiate the full agreement of all other members. If you had eight, this was accomplished with 75 per cent, if you had six, this was accomplished on a 75 per cent basis. Again, five to one on a six basis would accomplish the 75 per cent and allow the Association to take the action and the vote of the single dissenter would not be sufficient to prevent it and this was the objective at the time of the formation of the Association we considered most desirable.

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Q. (By Mr. Prael) Mr. Wyatt, I show you a tabulation, R-386 and ask you what that is?

[Tr. 894] A. It appears to be the employment figures, number of persons employed and represented by each of the unions set forth as of the May 15, 1963 payroll period in each of the companies.

Q. LSW stands for Lumber and Sawmill Workers and IWA for the International Woodworkers?

A. Yes.

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Q. (By Mr. Prael) When was it made up?

A. The figures were incorporated in the bracket adjustment sheets which were submitted to the unions as part of the settlement, the figures for each company and so on were

a part of that record and this tabulation was assembled from those sheets.

Q. Last night?

A. Last night, yes.

[Tr. 895] Q. At the Washington Athletic Club, if you would like the particulars?

A. Yes.

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[Tr. 899] Q. (By Mr. Prael) I will show this document to the witness. Do you recognize this, Mr. Wyatt?

A. Yes, I have seen it.

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[Tr. 900] Q. (By Mr. Prael) Mr. Wyatt, I show you R-387. Will you tell us what this is and whether that is the final agreement or what it is?

A. It is my recollection that this is the final settlement of the travel time issue which was left open—I mean it was decreed by the settlement agreement that it be settled by these joint committees and effective because it provided a four cent per hour—for example, total cost—

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[Tr. 901] Q. (By Mr. Prael) Mr. Wyatt, I believe you were explaining the execution of R-387.

A. This appears to be the wind-up of the travel time committee composed of members from each side of the two unions and from the Association implementing finally the travel time provision in the settlement agreement between the parties of August 13. The blanks that have been referred to are there because this clause in paragraph three on page one of this report, the material in quotes is to be incorporated in each contract between a member company and one of these unions and since it was not known by the joint committee what article it would be in each of those contracts, the article was left blank. Since the marshalling points, definitions which were to be attached to each con-

tract were not necessarily known as to what exhibit it would be to that contract, a space is left after the word exhibit and blanks and finally since the travel time payment in each of those wood operations might differ on the calculations of the four per cent and then the allocation to the individuals who did travel beyond the marshalling point varied as the exhibit A to this document indicates, between seven and one half cents at Crown and five cents at International Paper and so on. It had to be left blank.

When incorporated in each individual contract, as a result of this Association-union settlement, those three blanks will [Tr. 902] be filled in as appropriate in that particular contract.

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Q. (By Mr. Prael) You testified earlier in the proceedings about a conversation which you had with Mr. Hartley, with Mr. Earl Hartley on or about February 19, 1963. Do you recall that testimony?

A. Yes.

Q. Prior to that, as I understand it, first you thought on February 15 and then I think the date was established February 18, that you had a conversation with Mr. Harvey Nelson?

A. Yes.

Q. Coming to that conversation with Mr. Hartley on February 19, 1963, or on or about that date, where did that conversation take place?

A. In my office in Tacoma, Washington.

Q. Would you tell us what you said and what Mr. Hartley said?

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[Tr. 903] Q. (By Mr. Prael) Would you tell us how long did the conversation last?

A. Perhaps an hour, more or less a little bit.

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Q. (By Mr. Prael) Can you tell us briefly what happened in that conversation?

A. Which conversation, the one on the telephone?

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[Tr. 905] Q. (By Mr. Prael) Did you make the call?

A. Yes.

Q. What was the substance of that call?

A. To notify him of the formation of the Association. That we were so informed and he asked me what companies were involved and I told him the companies. I think in the case of Mr. Hartley, I also read off the operations involved, I am not sure. He indicated the desirability of establishing bargaining dates and I asked him if he would contact Mr. Boddy secretary of the Association to arrange such dates.

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[Tr. 911] Q. (By Mr. Prael) Mr. Wyatt, after this telephone conversation from Mr. Hartley on April 12, when was the first meeting with any representatives of the Association and representatives of the LSW for the purpose of well, any meeting?

A. I don't think there were any until the meeting of May 9, 1963.

Q. Where was that meeting?

A. It was held in the New Heathman Hotel in Portland, Oregon.

Q. And who represented the Association at this meeting?

A. I served as spokesman and the Association bargaining committee or negotiating committee was present with the exception of Mr. Len Forrest of Rayonier who was not present because Rayonier has no Lumber and Sawmill Worker employees. Mr. J. K. Louis of Rayonier was in the meeting and was present but was not serving on the negotiating committee.

Q. Who was present at the meeting of May 9, 1963 representing the Lumber and Sawmill Workers; who was the spokesman?

A. Mr. Earl Hartley.

Q. Who else was representing the LSW?

A. Mr. Daniel Johnson was present representing, I presume, I am sure, representing them. Mr. Ted Prusia, Mr. Jim Bledsoe and a number of others; Mr. Cassidy was present, I believe and some others. Oh, Mr. Hasard.

Q. What is his title?

A. At the present time, president of Western Council Lumber [Tr. 912] and Sawmill Workers, United Brotherhood of Carpenters and Joiners of America.

Q. Do you recall anyone else present; were there other people present besides those you named?

A. Yes, there were.

Q. Do you remember the names of any of them?

A. No, I can't recall the names. There were a number of local business agents and other representatives from various parts of the area.

Q. Do you recall when the meeting began, the time of day?

A. I believe it was in the morning.

Q. Do you recall how long the meeting lasted that day?

A. No, not specifically.

Q. Did it last several hours or—

A. (Interrupting) Yes, more than several hours probably.

Q. Would you tell us as nearly as you can recollect now what occurred at that meeting stating the—as nearly as you can what was said and who said it; the subject matters covered? If you can't give the exact words give the substance as nearly as you can recall it.

A. I recall the meeting opened with some questions from Mr. Hartley and a number from Mr. Johnston relative to the nature and form of the Association. Who was in it, what their objectives were, what they intended to accomplish by this Association, what its authority was and so on, quite a good deal as I [Tr. 913] recall it, quite a bit of questioning of me by both Mr. Hartley and particularly, however, Mr. Johnston about the Association.

Q. Mr. Johnston is the gentleman sitting here at the table?

A. Yes.

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[Tr. 914] Q. (By Mr. Prael) Do you recall any specific questions?

A. Yes; following this series of general questions and my answers to those, Mr. Johnston or Mr. Hartley, I believe it was Mr. Hartley, raised a specific question about the absence of certain of the operations of member companies. That is from Exhibit 8 or the attachment to, or the letter, I have forgotten what, the letter to the union indicating the desire to bargain on this basis. At any rate, I can't recall at the moment specifically how the union had worded the operations covered.

Q. I will show you R-58. Does it have to do with R-58?

A. Yes, this is the—

Q. (Interrupting) That is a letter on the letterhead of St. Regis which has been received in evidence?

A. This is the way—I had forgotten momentarily as to how they knew what operations were being represented as part of the Association so the question was raised as to certain operations which they believe they, Mr. Johnston and Mr. Hartley, and other representatives of the Lumber and Sawmill Workers felt should be represented in the Association bargaining. They made what I would consider a very strong point about the fact that Libby, Montana, and operations of St. Regis Paper Company, and Klickitat and operations of St. Regis and its my recollection they mentioned a Douglas City Sawmill of U. S. [Tr. 915] Plywood and another operation of U. S. Plywood. I am not sure whether that was Sonoma or not but I rather think it was and then I believe there was some comment by a Polson, Montana operation.

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A. (Continuing) They indicated that these ought to be in the Association for bargaining and why weren't they. I commented on this to the effect that: First, I indicated that I would like to discuss it with the particular employer members involved before giving a detailed response but that to begin with I knew that certain of these operations mentioned, that they mentioned that they were concerned about

what had been traditionally and always bargained separate from Western, Pacific-Northwest operations, east of the Cascades versus west of the Cascades type of bargaining which is quite traditionally different in the industry. I also knew that St. Regis had been involved in some very considerable labor difficulty in a previous year with the Lumber and Sawmill Workers relative to their insistence on keeping those eastern operations separate for bargaining purposes from their western operations; which format I pointed out was not at all unusual to make that division.

Mr. Hartley and Mr. Johnston made comments to the effect that they felt that they were there bargaining with the Association for all of the locals who had contracts with member [Tr. 916] companies without exclusions geographical or otherwise. They were speaking for all of our locals and that was that. The employers took a caucus at this point to discuss these specific question or geographical limitations which I mentioned that they brought up if I have the list correct, I am sure that, if I may not have misspoken some of those locations. In caucus I determined the positions of the Association with respect to these exclusions and went back to report further and did ask Mr. Mike Roberts of St. Regis to make a statement himself relative to Libby and Klickitat which were St. Regis's operations.

I also reported that one of these U. S. Plywood locations, which we had been requested to include was overlooked or was not included purely by oversight and we were willing to have it included as an Association member plant and bargaining for it in these discussions.

Q. Do you recall which one it was?

A. I believe it was the Douglas City Sawmill, it could have been Sonoma but I think it was Douglas City Sawmill.

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Q. (By Mr. Prael) Referring to the fact that Douglas City [Tr. 917] was omitted from R-329 a U. S. Plywood letter notifying the union of the Association?

A. I think it was Douglas City, it was either Douglas City

or Sonoma. If it was Douglas City, we agreed it should have been included but it was overlooked. The other one of those two I reported back it was my information that its contract was not open at the time. Hence, there were no issues between that particular plant and U. S. Plywood, hence no point in bringing it into the Association bargaining at least at the time or this year. Following this explanation there ensued, I would say considerable more urging on the part of the union representatives that we should not exclude these plants as they put it but rather should bargain for them here as part of the Association and I took the position on behalf of the Association that it was perfectly traditional and perfectly proper to come to the unions with a group of companies and group of plants bound together to a common result and in effect offered to bargain on this basis and that we were so doing and that Libby and Klickitat as a part of Eastern slopes of the Cascades bargaining was a long story well known to both sides and that I was not going to be able to include those operations as part, as member plants of the Association and that if that was a must or had to be done there was no other way to proceed then we just couldn't proceed because Libby and Klickitat could not be made a part of the Association bargaining by direction of [Tr. 918] St. Regis who owned the operations. I don't know how much more was said or by whom but among things that were said was that I was advised some time in the afternoon, I believe, that a telegram was being dispatched to me by St. Regis's headquarters in New York City relative to Libby and Klickitat in particular and that I should make it clear that the telegram should be shown to the unions representatives by me to underline, in effect, the position which I had taken relative to the fact that we proposed to bargain and suggested to bargain as a fully bound association on the number of plants and locations which we had advised them of. Plus, the Douglas City Sawmill, if that was the one.

There was then some discussion, and I don't recall whether there was any in connection with outlining a lumber and sawmill workers operation or whether this was a preliminary statement or preliminary discussion to give

us the option but Mr. Johnston did discuss with me the matter of Association level committees to perform such functions as a job classification on an Association wide basis. Automation and mechanics problems, desirability of having the committee and were we able to do so and could we do so and I replied that we could and whether we would agree to do so might have to develop out of the bargaining. Mr. Johnston also made a very considerable point with respect to the desirability of a master agreement. What he referred to as a master agreement or uniform agreement or words to this [Tr. 919] effect and the word master contract and uniform contract also. We had some discussion across the bargaining table about what was meant by that and what he had in mind and at least as part of the option if not all of it, before giving us his option, indicated that one of the unions desires would be to bring about a—some form of uniform and/or master type contract between the Association and the Lumber and Sawmill Workers and upon explanation, I gathered that what Mr. Johnston really said, I believe, approximately was that he at least would like to start by having an Association wide master, uniform agreement covering those clauses or parts of the total contracts, plural, when the various member plants and the Association which were in fact uniform or were made uniform as a result of the current years bargaining. Thereby, if I understood him, an agreement over here on the left which might be between Association and LSW, Western States Regional Council, Western Council, which would be a contract between the Association and the Lumber and Sawmill Workers and would consist of all of those contractual provisions which were uniform among all of the local unions and all of the member companies and that we might still have an attachment or, I was never sure exactly, how we would handle the rest of them when they were not uniform but at least we had additional pieces of paper, additional agreements at each local level or each plant level that embodied those contractual provisions that were different or done standard you might say, [Tr. 920] among the various member companies and member mill contracts. We had a considerable discussion on this point; I

would say not only on May 9, but on other days and in presenting the Association position with respect to it, to this particular approach, I am emphasizing this because it did take up a big part of the meeting, this discussion.

I indicated that it seemed to me, a completely unworkable kind of approach to attempt to put together uniformity in any one year and pointed to some experience we had trying to do this even within one company that was a multi-plant company, but that it sounded like quite a mouthful to me and quite a laborious process that would probably keep us in session indefinitely attempting to take all of the contracts between Lumber and Sawmill Workers and various member companies and member locals and put them together in any kind of uniformity in one year and even if it were technically feasible I would be inclined to take a bargaining position in opposition to it. I gave my reasons for that and that was the fact that any kind of collective bargaining had ever been known to adopt that kind of approach would be a very strong tendency to pick the best clause or best provision of any one part of the contracts and say that is what we will use as the master uniform contract. So, I objected to it on the grounds of workability, feasibility, practicality and I objected to it on the grounds that I thought I would be doing very poor bargaining to agree to an approach [Tr. 921] of a uniform contract in any one year across any one bargaining table.

I was asked by one of the union spokesmen if I hadn't said we were involved in long-range approaches and how did we feel ultimately about an Association-wide, master and/or uniform agreement between Lumber and Sawmill Workers and the Association and I said that we all felt we, being the negotiating committee of the Association, felt that is where we would wind up some day unquestionably and it was perfectly desirable to wind up there as far as we were concerned but that it would have to come about I felt by continuing to bargaining a series of uniform settlements in a given year to agree uniformly since the Association was acting as one. If it agreed and all of its member plants agreed to a given settlement which then was embodied in the existing contract as per the settle-

ment and if we continued to do that over a period of a few years, there would be gradually increasing uniformity and gradually decreasing disparity among the contracts and we approached the point that it was perfectly practical to work out uniformly or master or whatever. Either at that meeting or the next three or four in order, I used the words, or the phrase, to express my feeling that I thought this was the process of evolution as opposed to revolution and that both personally and as a representative of the Association I felt strongly that this was not a thing in itself to undertake in any one given bargaining session, particularly the first. I believe that whether I had said more or less on those subjects that might have been said in the meeting itself, I really couldn't be sure but certainly they were discussed and certainly those positions were essentially the ones taken.

Also, on May 9, it's my recollection that Mr. Johnston did present to us the total option, the total demands, if you please, or suggestions for contract amendments on behalf of the Lumber and Sawmill Workers. He included that committee of which I spoke. He included the Association's master contract if that was the words, master agreement. He included an item relative to prorating of vacation pay and for retirees. He included—well, I can't recall—there were some other items but I can't recall them. I can recall primarily, because it was amusing, that one of the other members of the committee reminded Mr. Johnston before he finished his opening list that he shouldn't forget the 60 cents an hour and he did then include the 60 cents an hour option over the three year period and some other options—at the moment I don't remember what they all were.

Q. By options, do you mean—

A. (Interrupting) Demands.

Q. Requests for changes in the contract?

A. Yes, I do.

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[Tr. 923] Q. (By Mr. Prael) Have you told us what you can recall now of the meeting of May 9, 1963, between the Association representatives and the LSW representatives?

A. No, I haven't finished. I have forgotten where I was. I was talking about the union openings.

Q. Yes, the openings.

A. In connection with the openings discussion in this meeting, and before we got to openings, the part that I referred to as question and answer, the Association and who made it up, and so on, I believe it was Mr. Johnston asked me whether the Association had authority to bargain on anything other than its openings, its own openings, and I said yes, that it did, and he wanted to know if we were equipped to bargain on union openings and had authority to do so as well as the employer or the Association openings, and I said yes, that we did.

He had some questions about the reservations of certain subject matter, items for local bargaining, and I told him that it was certainly our objective, as I told him and the other [Tr. 924] union, too, in future years when we had more time to diminish the list of things that could be better done at the local level and have a less restricted Association level bargaining with less subject matter reserved for local discussion and settlement.

They indicated, they, in that I don't know whether it was Mr. Johnston or Mr. Hartley, that they viewed association type bargaining as a constructive thing and had a lot to recommend it as they saw it, but they felt that we should work in the direction of minimum reservation for local discussion and maximum Association settlement.

Mr. Johnston asked me if we were set up in such a manner that we considered a strike against one a strike against all in this Association, and was that its purpose. I recall replying that we were so set up in our agreement but that that really wouldn't be the primary purpose of the organization, but that we had such a provision in our agreement.

He asked me if our agreement was written and I told him it was. He asked me if there was someone authorized to sign for each company, and I replied that there was one person authorized to sign for the Association.

Again I am not certain as to whether I covered all elements of the union opening which had been covered for me

by Mr. Johnston, but—or for all of us—at any rate, when he did finish the openings, I did describe in some detail the [Tr. 925] employer openings which were the same ones, or employer suggestions for modification of the contract.

I gave some editorial comment in support of each one of them, they are the same three that were discussed first individually with the International Woodworkers and finally we were still bargaining on when the Woodworkers and the Lumber and Sawmill workers were bargaining with us together from July 15 on.

These were, quickly, the hours of labor opening, the concerted refusal to work overtime, and the grievance procedure opening, which I explained.

If I am not mistaken, there was some, following the presentation by both sides of what they sought, there was some further questions, I believe, on the so-called geographical exclusions indicating the Libby-Klickitat thing as being undesirable and I had already explained, I think, that Douglas City was included.

I guess I testified to this before, that Sonoma was not open. Well, there was further argument on why we should bring them in and further argument on my part, on two grounds, really, one, that it was nothing unusual, they had bargained this way before in past years and in fact there had been a strike over the issues as I understood it, so we were not changing anything in bringing St. Regis in as a member of this Association without necessarily bringing in all of their [Tr. 926] operations, and I didn't consider, I recall saying that if you want me to bring in a different package of employers as an Association, or a different number of plants, I simply am not able to do such.

And as part of that by-play, I was asked whether we had provision for expansion or contraction of the Association, and I guess I would have to admit that we really hadn't come to grips with the problem, other than how we would accept a new member. I pointed out among other things in my argument on the point, I didn't consider the St. Regis situation any different than the Weyerhaeuser situation or a great many other companies who had plants in the United States who were not being brought into this

Association for purposes of collective bargaining, and we did have contracts with the same International unions elsewhere in the United States and in Canada and we didn't consider it appropriate to make them a part of this unit either, but by tradition or desirable bargaining at the present time.

The union said they wanted it clearly understood that they were not going to abandon any locals and they wanted to represent them all and so on. During a short caucus I recall discussing this in caucus with Mr. Johnston and Mr. Hartley, and without debating, in effect, said that there wasn't anything going to be done in any way to include these two operations in this bargaining. If it was a make-or-break-situation, they [Tr. 927] were through, in effect. There wasn't any way to proceed, it couldn't be on that basis.

I had told them that I expected to have a telegram from Ed McMahon or someone in New York which I would show them when I received it.

Before the meeting closed, Mr. Johnston suggested so that we knew our plans for the future, so that we might set aside a couple of dates later in May—I don't recall what they were, there were a couple of dates later in the month—which because of his schedule he thought ought to be reserved, even though we had agreed to meet the next day.

We broke up until the next day. I think I have exhausted my recollection of the meeting.

Q. I will show you notes which have been marked B-25. I notice on the first page is the date "5-9-63". Are these notes that have to do with that meeting on May 9, 1963?

A. They appear to be, yes.

Q. Would you look at those? Are those in your handwriting?

A. Yes, they are. The first page is, anyway.

Q. Would you look at any of the notes that have to do with the May 9 meeting and see if that refreshes your recollection as to any occurrences at that meeting in any respect, to which you have not already testified? I under-

stand that General Counsel has prepared the original with the copies furnished. Do you find any disagreement with the copies furnished? [Tr. 928] We would like to correct it if there is.

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Q. (By Mr. Prael) After refreshing your memory with R-25, is your recollection refreshed to the point that you can recall any further incidents of that meeting of May 9, in addition to the matters that you have already covered?

A. I can corroborate I was guessing correctly on Douglas City as being the one that we said was left out because of an oversight and Sonoma was closed, but my notes show it was closed to all except wages and I believe my earlier testimony was that it was closed, period. Those notes would lead me to believe that it was closed except for wages only.

I am not sure of which the fact is in that case.

[Tr. 929] I note among the union openings was the one on sub-contracting. I remember now that there was such an opening. Considerable point was made for the need of a sub-contracting clause. I recall that I made some reply, I don't know, maybe it was the next day, that I made a reply—I don't know, I may have made it on the 9th.

I note in connection with the proposal for a master or uniform contract, Mr. Johnston had suggested some areas as I recall now that might be considered the ones that could be made uniform, at least in the first go round. Such things as recognition and certain specific parts that he thought could be handled that way.

I think that is all that I can recall.

Q. I will show you R-354, which are notes of the meeting prepared by the Association secretary, Mr. Boddy, and refer you to the material under the date May 9, 1963. Would you look through those notes and tell us if they refresh your recollection as to any of the occurrences of the meeting of May 9, to which you have not already testified?

Having referred to that exhibit, R-354, does that refresh your recollection on any additional matters discussed or events of the meeting of May 9?

A. It does not appear to refresh my recollection as to any additional subjects. It recalls various other comments made in support of positions that I have described.

[Tr. 930] Q. Now, there was a meeting the next day, May 10?

A. Yes.

Q. Was the same group present, that is, generally speaking, as before on May 9?

A. Generally speaking, that would be correct.

Q. And who was the spokesman for the Association at the May 10 meeting?

A. I was.

[Tr. 931] Q. And who was the spokesman for the LSW on the May 10th meeting?

A. Mr. Hartley, Earl Hartley.

O. Would you tell us what you recall about the meeting of May 10, 1963?

A. I'm not entirely sure, but I think we opened with some more discussion of Libby and Klickitat conceivably. I do not recall exactly, really specifically with respect to May 10—

Q. (Interrupting) Before you proceed, I want to have this exhibit marked.

Mr. Prael: I will give you R-208. This is a further copy of R-208 which has been marked for identification purposes. It is a copy of a telegram addressed to Mr. Lowry Wyatt from Edward J. McMahon, Director of Industrial Relations, St. Regis Paper.

Q. (By Mr. Prael) I will ask you, Mr. Wyatt, do you recognize R-208?

A. Yes.

Q. Did you receive that telegram on May 10, 1963? I see it bears a date up on the top righthand side.

A. I don't know where that stamp came from, but I received the telegram, yes. I received it sometime on May 10th.

Q. And would you tell us what you did with the telegram?

A. Yes, in a caucus or recess, break in the negotiation schedule that day I showed the telegram to the—original

of the telegram to Mr. Hartley and Mr. Johnston standing in the [Tr. 932] hall outside of the bargaining room and said that was the telegram that I had already told them that I expected relative to not bargaining or not making Libby and Klickitat Association member plants on behalf of St. Regis.

Q. Did they make any reply to that?

A. They made a reply to it at least when we reassembled, as I remember, as to full committees.

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Q. (By Mr. Prael) Did you send a copy of this telegram to Mr. Hartley at a later date?

A. Yes.

Q. I will show you a letter, a copy of a letter that has been marked as R-209 and ask you if that is a letter of transmittal with which you sent a copy of that telegram to Mr. Hartley on or about that date?

A. Yes, I did.

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[Tr. 933] Q. (By Mr. Prael) This letter is dated May 14. Is that when you sent the copy to Mr. Hartley?

A. Yes, sir.

Q. You did show him the telegram on the day that you received it, May 10th?

A. Yes.

Q. Coming back—I interrupted the testimony.

Regarding the meeting of May 10, 1963, and I had asked you to relate what you recalled happened at that meeting as nearly as you can, what people said and who said it and if not, the substance of the discussion on that day.

A. The only thing I recall clearly from my recollection at the moment is that it was on May 10 that I did, representing the Association, make an offer to the Lumber and Sawmill Workers committee for settlement of all of the issues between us.

The offer, I can't recall all of the details of the offer. It did include our three suggestions that we had made as an

Association, the hours of labor, concerted refusal to work overtime, and the grievance procedure or the insistence that [Tr. 934] individuals work while a grievance was being processed. Those were included. As I recall our first year or effective June 1st, 1963, wage proposal was expressed in per cent, as I recall as opposed to cents per hour as we had proposed in the IWA early offers. We had a second and third year provision. It was a three year contract.

There were comments made—I should go back before this offer or at least before the response to the offer. When I did show this telegram, whenever that was in the day, to Mr. Hartley and Mr. Johnston, this was in a caucus and when we resumed they made some statements about the fact that they were there representing all the locals who had contracts with Association member companies and I replied that any answers that I gave would be only on behalf of the operations mentioned in the various letters to the union by the various member companies and that I was not representing any others.

There was a question or two about whether, what the effect would be on Sonoma, for example, and Libby and Klickitat if an agreement should be reached and I said none. I remember saying you may be speaking for a lot of others, but I am only listening for the ones that the Association represents. There was a response too, by the union, I believe, still on the meeting of May 10 to our suggested offer.

Q. What was that response to the offer you made? Do you recall what the offer was—you said in the way of wages, percentages——

[Tr. 935] A. (Interrupting) Yes, we indicated a per cent.

Q. Do you recall was it more than a year?

A. It was a three-year contract. We suggested a percentage increase the first year, at least, and I might be wrong in this, but I think it was two and a quarter or two and one-half per cent that first year and then there was some, one per cent perhaps the second year and one plus per cent, one and something per cent the third year.

Q. After you made this offer what happened?

A. Then we had a bracket deal in there too. We offered

a bracket amount for skill classifications in our openings and I may have made a comment on sub-contracting. We got into one of the meetings into quite a discussion on the legality, there had been some court decisions, very recent ones, about sub-contracts and we had a discussion about that issue.

Now, specific answers, specific comments—they made a response, they certainly indicated that this offer would not do the job and I am very much afraid I am unable to tell you, I can't recall exactly what points they picked out or what they had to say. It seems to me that that meeting ended after hearing our offers and discussing it at length and rejecting it and giving reasons and recessing until sometime late in May which dates had been agreed to the day before.

Q. Is that all that you recall of that meeting of May 10, 1963, at the present time?

[Tr. 936] A. Yes, it is.

Q. I show you this collection of notes marked R-25 and ask you if there are any notes relating to the May 10 meeting which in any way refresh your recollection as to events or statements made in the meeting of May 10, 1963, to which you have not already testified.

A. Yes, there seem to be some notes covering 5/10/63. A good many of these notes are not mine, I mean they were not made by me. One of the pages back here—let me see if I can figure this out, and then there are some that are my notes. There is quite a batch of notes here. My recollection is that these were notes made for me by Mr. H. J. Greeley when we were in a employer session discussing—really he was writing down what the negotiating committee's Association as instructing the committee to say.

Q. Does that refresh your recollection?

A. There is a slug of them. I will have to read them.

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[Tr. 937] Q. (By Mr. Prael) My Wyatt, having referred to R-25, is your recollection refreshed in any respects to additional matters and details that you have not covered

in your previous testimony regarding the meeting of May 10th?

A. I am not really sure of what I covered in my previous testimony. It does bring up some points that I have forgotten and also I note that some of the notes that I made on May 10 are apparently so cryptic that I can't remember what they meant right now even after reading them.

My memory is refreshed to the extent, from those notes, that I did make a rather lengthy specific replies with respect to some of the subject matters opened by the unions or that the unions wanted to accomplish by this contract and these points included but were not necessarily limited to the matter of wages in which I noted in their proposal that they had come to grips with a three-year contract. They were suggesting a three-year closing and I thought that was desirable and that they did have a portion of the wage proposal to be spent for skill adjustments and I thought that desirable but that on the part or matter of the amounts suggested in their proposal, I thought it was way out, and representing the Association I needed to say that the economic conditions in the industry came no where near of supporting that type of, that amount of money and the wage factor and that this was not going to get us very far if this was the union's position.

[Tr. 938] On the matter which had been discussed by the union of a joint industry classification committee to study rates across the industry and across the Association, I indicated that there was certainly a possible desirability of accomplishing some uniform system of doing this job, but that really it wasn't entirely related to automation, that in my feeling the content of a job as it was at the moment as analyzed either by a job analyst or industrial engineer was the basis for determining a job rate and not necessarily the fact that that job may have been changed or the numbers of people required to perform a certain function had been reduced, but that rather the job as it was, analyzed as it was by economy people as a basis, and I was not interested in getting job classification and automation as two separate subjects mixed up.

On the matter of automation I stated on behalf of the

Association the employment figures of Lumber and Sawmill Employees working for member companies. I think we choose three, maybe it was five, five years back and the employment today that there had not been a loss of employment.

Going back to the wages for a moment, in connection with that I said that one thing that seriously affected our ability to offer wages would depend a good deal on the union's attitude towards some of our openings, to wit, the hours of labor openings, in which we were asking for a seven-day three-shift operation in order to improve the capital investment opportunities [Tr. 939] in the building of plywood plants and particle board plants that could run continuously. One of the real factors in the capital investment pay off was the per cent capacity you could operate without penalty time.

So, I pointed out in some of our openings that they were fairly closely related and their attitude towards one could have an effect towards our attitude towards the other.

On the union's request towards a sub-contracting clause to, which to the best of my recollection their approach was to insist that any contractors that might be appointed to do work for a member company would be obligated to see that benefits equivalent to those in the LSW contract were paid to the employees of such contractor. Now, maybe there was a gimmick in that different than I stated it, but I think I stated it essentially right.

Q. This was a union demand?

A. Yes, and I commented there was some dubious legality, number one, I had some doubts about it and we understood the problems created by the rights of the sub-contract. We understood that it was possible to abuse that right by some employers at some times, but that the remedy was not to take away the necessary efficiency that any employer requires to schedule his operations including the rights to sub-contract in certain situations.

Q. Was there reference made to prorated vacations in the union [Tr. 940] demands?

A. Yes, as I said one of the demands was a prorated vacation for retirees and after consideration our reply to

that was that we didn't have any particular objection to it. It was probably all right. We could probably incorporate it in a settlement provided that we were talking about normal retirement dates or disability retirements.

Q. Was there a discussion of the length of the contract, had the union made a request in that respect?

A. I already said that they talked about three years and I said that that was one element of their wage proposal that I thought was all right, the three-year portion. The amounts each year was another matter.

Q. Did they reply to your wage proposal?

A. Yes, they had replied before the end of the meeting on the tenth as to our wage proposal and certain other of our proposals they made a reply to. With respect to wages, I think they said we would have to do more thinking about that and I recall Mr. Hartley indicating that we were bargaining for a strike if that was the best that we could do but that wasn't going to begin to solve the problem.

Q. Referring to what?

A. Our offer, which my notes also show was two and one-half per cent, one per cent and one and one-half per cent in each of the three years, plus a one and one-half cent, not per cent, [Tr. 941] but one and one-half cent bracket adjustment provision and it was that offer that Mr. Hartley was commenting to with respect to its inadequacies.

Q. Was there any reference to cooling smokestacks?

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A. In some meetings words of that kind were used and I cannot recall whether May 10 was one of those meetings. The term cool your smokestacks was, or cool your stacks was one that I heard in these meetings with the LSW during these periods.

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Q. (By Mr. Prael) Is that all that you recall regarding the meeting of May 10, 1963?

A. Yes, I think it is.

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[Tr. 977] Q. (By Mr. Prael) Can you recollect anything further regarding the meeting of May 10, 1963, between the representatives of the Association and representatives of the LSW?

A. Counsel, I am having some difficulty remembering how much of this I have already put in the record. There are some things that I am fairly certain that I did not recollect yesterday, either from my own recollection or from the perusal of my notes.

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[Tr. 979] Q. Is that all that you recall at the present time regarding the meeting of May 10, 1963?

A. Yes, it is.

Q. And there was a meeting, then, held on May 22, 1963, wasn't there, in accordance with the agreement of the parties?

A. Yes, I believe there was, and I believe that is the day.

Q. Prior to that time did you and the other representatives of the Association meet with Mr. Hartley or Mr. Johnston, or both?

A. Prior to May 22?

Q. Yes.

A. It seems to me that I had a meeting with Mr. Johnston and Mr. Nelson at some time. I cannot recall whether it was before May 22 or not. I don't really recall.

Q. Do you know was it in the month of May?

A. Yes, I believe it was, before the meeting of June 3, at [Tr. 980] any rate.

Q. Where was this meeting, if you recall?

A. I recall a meeting in the Congress Hotel, I believe, in Portland, in which I met with Mr. Hartley and Mr. Johnston, and, I believe, with Mr. Ed McMahon of St. Regis. I cannot place the exact date except I am quite certain it was before the final pre-strike meeting with the LSW, which occurred on June 3.

Q. It may have been before or after the May 22 meeting?

A. Yes, it may have been.

Q. Mr. Nelson was not in this meeting?

A. No.

Q. Just Mr. Hartley and Mr. Johnston?

A. As I recall, yes.

Q. Can you give us just generally the subject matter during this meeting? Let me ask you this, was the economic issue and the contractual issue in dispute between the union and the Association discussed?

A. Yes.

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[Tr. 982] Q. (By Mr. Prael) Mr. Wyatt, during that meeting with Mr. Hartley and Mr. Johnston at which you and Mr. McMahon were present, at the Congress Hotel some date in May, was any reference made or discussion had regarding the status of the Association as a multi-employer group?

A. Not to my recollection, sir.

Q. Coming, then, to the meeting of May 22, 1963, who represented the Association at this meeting?

A. I was the spokesman of the bargaining committee, except for Mr. Forrest—of the negotiating committee—except for Mr. Forrest, and a very considerable number of other interested employees of the Association members.

Q. And who represented the LSW at this meeting on May 22?

[Tr. 983] A. Mr. Earl Hartley, assisted by Mr. Johnston; Mr. Prusia was present; Mr. Bledsoe; and Mr. Cassidy; and quite a number of additional individuals. I can't be certain.

Q. Do you recall where this meeting took place? It was in Portland, I take it?

A. It was in Portland, and, I believe, it was in the New Heathman Hotel.

Q. How long did the meeting take?

A. I don't recall specifically. It is my recollection that this was not one of the longer ones, but rather, one of the shorter ones that day; a matter of a few hours perhaps.

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Q. (By Mr. Prael) Is that all that you can recall of those present at this meeting?

A. Well, there were a number of additional persons on both sides of the table. I have named those that I am certain were in attendance and there are some others that I really think were but I am just thinking and so I haven't named them. There were a great many more on both sides of the table, I am certain of that.

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[Tr. 984] Q. (By Mr. Prael) The Conciliation Service representatives were not there at that meeting, or were they?

A. No, I don't believe they were at that stage.

Q. Can you tell us, as nearly as you can recollect, what happened at that meeting of May 22, giving us what was said and who said it, as nearly as you can recollect; if not the exact words, the substance of the discussion?

A. I should like to state the substance of my recollection at this stage of the record, because I can't remember anything specific right at the moment.

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[Tr. 985] Q. Is that all that you recall now regarding that meeting?

A. Yes, that is all that I can recall. I admit it is pretty general.

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Q. (By Mr. Prael) I hand you R-25. Are there any notes in here relating to that meeting? I believe there is another exhibit with regard to notes.

[Tr. 986] A. No, there are none here, sir.

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Q. (By Mr. Prael) I will show you R-355, which are minutes relating to the meeting of May 22, 1963, and I will ask you to look that over and see if that refreshes your recollection as to any more of the events of the May

22 meeting, other than those that you have testified to already.

Mr. Wyatt, after referring to R-355, do you have any further recollections at this time as to the events of that meeting of May 22 to which you have not already testified?

A. I can be a little more specific on a point or two. In general, my previous testimony covered the substance of whatever took place that day.

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[Tr. 987] Q. You say that no new offers were made by either party. Were offers requested by either party?

A. Yes, both sides requested that the other one make a new [Tr. 988] proposal. At one time I recall Mr. Johnston saying what do you expect the unions to do now and it seems to me that I said one way to get moving, you might indicate that you are off the 60 cents position, and suggestions were certainly made back to me that it might be helpful if we were to indicate a new offer, rather specifically, make a new offer and get on with the bargaining.

There was specific emphasis on wages at this stage of the game. We were talking in cents.

Q. That is all that you recall now as to the events of May 9, 1963, between the Association, on the one hand, and the LSW, on the other?

A. Yes, I believe it is, counsel.

Q. Now, when was the next bargaining meeting between these two groups, if you recall the date?

A. It seems to me that we had originally set aside the 22nd and 23rd at our meeting of the 9th and 10th, but apparently, in view of the rigidity of the parties as demonstrated at the meeting of May 22, it seems to me that we did not meet again until June 3.

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[Tr. 1004] Q. (By Mr. Prael) Mr. Wyatt, the last meeting you testified to between the Association and the bargaining representatives of the LSW was May 22, 1963.

When was the next meeting that you can recall between these two groups?

A. You mean the next meeting between the full groups?

Q. Between the full groups, yes.

[Tr. 1005] A. You are excluding the one that I testified to prior to the recess that may have been before or after the 22nd?

Q. Yes. You testified to one where you and Mr. McMahon met with Mr. Johnston and Hartley. That may have been after May 22nd?

A. Yes.

Q. When was the next meeting?

A. As I recall it was June 3rd of the full group.

Q. Do you recall where this meeting took place?

A. I believe it was still in the New Heathman Hotel and it was at any rate in Portland, Oregon.

Q. At that meeting who represented the Association?

A. I was the spokesman of the negotiating committee of all member companies who had contracts with LSW unions and a number of other people.

Q. And who represented the Lumber and Sawmill Workers?

A. Mr. Earl Hartley as spokesman assisted by Mr. Johnston, I believe, yes, Mr. Johnston, Mr. Cassidy, Mr. Prusia, Mr. Bledsoe, and a number of other individuals.

Q. Do you recall when this meeting began on June 3?

A. No, sir, I can't recall the exact time of day.

Q. Do you recall whether or not a federal conciliator was at that meeting?

A. Yes, the Conciliation Service was represented.

Q. Do you remember the name of the gentleman?

[Tr. 1006] A. Mr. LeRoy Smith, I believe, was present representing the Conciliation Service.

Q. Do you recall how long the meeting lasted?

A. It seems to me the meeting took the better part of the day. It seems to me there was a recess and that we worked pretty much through that day.

Q. Was there more than one meeting that day, June 3rd?

A. Of the full groups?

Q. No, of any representatives of the Association and representatives of the LSW?

A. There was another.

Q. Now, coming back to the meeting of the full group, you don't recall the hour it began. Was it sometime in the morning?

A. Yes.

Q. Would you tell us as nearly as you can recollect at the present time the discussions that were had at this meeting telling us what was said and who said it in exact words if you can recall, and if not, the substance of the discussion or the substance of what was said?

A. Well, the representative of the Conciliation Service, as I recall, asked for a statement of the parties' position which was given, as I recall, by both parties as to where they were.

There was more discussion of the type and kind of contract and or agreement that the parties might develop as a result of these bargaining sessions. It seems to me this was the [Tr. 1007] meeting in which I was asked rather directly as to whether the Association had authority to enter into a master-type agreement or a uniform-type agreement and I replied that it did have authority.

Upon being pressed somewhat further as to going ahead and doing that and reaching that kind of agreement, I said, repeated arguments that I made in many meetings or occasions prior to that, that I didn't consider it the right answer or the proper answer or the practical answer and still insisted that a series of uniform settlements between the Association and the unions reached in this fashion would after a period of time narrow down the amount of divergence in existing contracts and render an Association master contract possible and quite feasible.

There was considerable byplay at this meeting. It was getting down toward the end of things. There was a recess sometime during the day after which I indicated that even though, I remember saying that even though the discussion that we had either in the morning or at least in that part of the session which occurred prior to the recess was not really conducive to the constructive consideration of an

offer, the atmosphere was not that in which you had a great deal of hope for settling and some of the statements that had been made and I don't remember right now what they were, but I remember saying that it would appear that any offer that we did make was almost rejected [Tr. 1008] in advance. But none the less the Association considered its employees in all unions deserving of the same sort of treatment and having the same sort of alternatives before them, whatever those alternatives might be, that we did wish to make another offer and, as I recall, we did make another offer.

Q. Do you recall what that offer was, the details of it?

A. No, I am afraid that I would be guessing at little. It was very similar to the one we had made to the IWA. No, I would be guessing about what the specific details were. I have an idea but I am not sure of it.

I further recollect that that offer was rejected that day. I recollect that certainly at this time there was reference to the possibility of our smokestacks being cooled. There was some reference as I recall——

Trial Examiner (interrupting): By the union?

The Witness: By the union, yes, sir.

A. (Continuing) There was some reference to this whole negotiating procedure that we had been going through as being something like the mating dance of the whooping crane and a number of other statements prior to the conclusion of that meeting adding up to the fact that our offer was not satisfactory and further actions on the part of the union would be considered and taken by them if this was the best that we could do, in effect, and those are not the exact words.

Q. (By Mr. Prael) Do you recall what the union's wage demand [Tr. 1009] was at that time?

A. Well, at least across the table it is my recollection that it was still 60 cents an hour for the three-year period.

Q. Is that all that you recall at the present time regarding the meeting of——

A. (Interrupting) I recall that there was much detail each of the general headings that I mentioned that was

discussed, argued and debated. This is all that I recall with respect to the general subject matter.

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[Tr. 1012] Q. (By Mr. Prael) Mr. Wyatt, having referred to Respondents' Exhibit 356, is your recollection refreshed in any respect regarding the meeting of June 3, 1963, as to what happened on that day in addition to the matters that you have already testified to?

A. Any such matters that occurred?

Q. Yes.

A. Yes.

Q. Would you please relate now your present recollection as [Tr. 1013] to that meeting?

A. When Commissioner Smith asked for the position of the parties at the outset of the meeting, Mr. Hartley did reply that his position was 60 cents for a three-year period. I outlined the specific terms of the previous offer or the last offer we had made to the Lumber and Sawmill Workers in detail covering each point. The union or individuals speaking on behalf of the union came back to the question of master contract and made a statement or two relative to the fact that they considered the formulation of the Association a good thing. They wanted to help us foster it and one of the ways to do this they felt was the signing of the master agreement. I was questioned to some extent as to our willingness to include the classification committee that had been discussed in the master agreement and the automation committee and so on. I continued to make the argument to which I have referred a number of times already and won't repeat with respect to those, but I did make them again with respect to our attitude toward a master contract and classification committee et cetera and we had some discussion about our seven-day week and I recall at some point in here Mr. Johnston said to me, "How would you react to you dropping your seven-day a week proposal if we dropped the master contract proposal" and I said I didn't—I don't know how I said it, but I didn't accept the proposition.

Q. Who said that, Mr. Johnston or Mr. Hartley?
[Tr. 1014] A. As I recall Mr. Johnston asked me that question.

Then in—after the caucus, and we did have a caucus that afternoon, I did make another proposal for settlement and it had in it our various openings. It had some discussion—we agreed to an automation committee and would discuss at the Association level with the union certain things and we agreed to a classification approach in which we said that we felt that the companies, member companies of the Association would need to make an initial study of classification matters in that lots of things were involved in making such job analysis and so on and that we would be happy to make a report back to the union committee as an Association as to the results of that study and what recommendations for continuing ought to be, and we would agree to make a report as of the date certain, so that it didn't appear to be a pure stalling technique.

I indicated a change in position on wages, as I recall, to some eight and one-half cents an hour, if I am not mistaken the first year or effective June 1, 1964 and a two cent bracket adjustment, the same theory that I have been testifying to before and some two and one-quarter per cent increase as of the third year, 6/1/66, and I am just a little bit hazy on what that intermediate year was in June of '65, but I think it was five cents an hour. I am not real sure of that. I think it was eight and one-half cents the first year and five cents June 1, '65 and two and one-quarter per cent June 1, 1966 and two cents [Tr. 1015] bracket and then the other items of employer openings which have been mentioned before and so on.

Q. Did the union make a response to this proposal?

A. Yes, they made a response indicating that the wage offer was insufficient, but Mr. Johnston did speak to the question of the classification committee and the automation committee in particular and my recollection is that he indicated that our approach on classification made some sense to him as did our approach on automation, that he might have some suggestions to make to be sure that we would

carry it out and so on, but that basic approach looked all right.

The wages were insufficient, particularly, even the first year wages of eight and one-half cents would not do the job.

It seems to me it was indicated that the bracket proposal was not out of line but there were in addition to wages, there were other matters expressed of concern to the unions.

The conciliator at this point suggested that we break up in separate groups. It was either before or after this point—no, I believe we went across the street and had a room in the hotel across the street and there was some sessions held by the Commissioner, as near as I recall, with the union, or he indicated that he had been meeting with the union and then met with us.

Q. What time of day was this?

A. Mid-afternoon, or so, I would say.

[Tr. 1016] We came back, if I recall into session and there were some more comments made about the inadequacies of the offer.

Q. You came back into session. Was this the complete group again?

A. As I recall we did—I'm not entirely certain of that, but it seems to me we had a session after the divided session and nothing was really accomplished there other than some comments about our offer and the fact that they would have to take such action as they deemed appropriate under the circumstances.

Q. During that June 3rd meeting was there any reference to or discussion of the status of the Association as a multi-employer group?

A. Yes. I just stated that there was, that the union had indicated that they thought this was a constructive move and desirable move and they wanted to help cement it for the future through the medium of a master uniform contract was the one way they could do this.

Q. Other than that?

A. No, I don't recall anything other.

Q. At this time was there any demand by the LSW that

the Association undertake at that time in those negotiations to bargain on pensions?

A. No, sir.

Q. On health and welfare?

A. No, sir.

[Tr. 1017] Was there any question regarding the bargaining at the Association level of local issues?

A. No, sir.

Q. Now, do you recall approximately what time of day this meeting of the full committee of the Association ended with the conciliator?

A. Not specifically.

Q. Was it late in the afternoon—

A. (Interrupting) Three, four o'clock or four thirty, sometimes between the middle and the very late afternoon.

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[Tr. 1023] Q. (By Mr. Prael) You said that when in bargaining with the union in an attempt to make a large number of contracts uniform, your tendency is always to take the best provision of the 50 contracts, or whatever there are, and apply it to all.

By best, do you mean the most costly?

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A. What I meant was that the provision considered most desirable by the union has a tendency to become the starting point, and, as I have put it, many hundreds of times the employer is bargaining up-hill, he is trying to detract which is most favorable in the unions' minds as opposed to beginning with the subject matter per se and trying to bargain to a [Tr. 1024] reasonable point.

I don't like that approach; never have. It is a bargaining matter. It is not a practical matter. I think some of my friends in the union understand it very clearly.

Q. (By Mr. Prael) Have you told us all that you recall about that meeting of June 3, 1963?

A. Yes, I believe I have.

Q. Mr. Wyatt, did you have a further meeting with any

representatives of the LSW on that date, June 3, 1963?

A. Yes, I did.

Q. When did that occur?

A. Later, some half hour or 40 minutes later; maybe one hour after the adjournment of the group meeting on June 3.

Q. And where was that meeting?

A. In the Congress Hotel in Portland, Oregon.

Q. Who was present at that meeting?

A. Mr. Hartley, Mr. Johnston, and myself.

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Q. (By Mr. Prael) How did this meeting come about?

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A. It is my recollection that I requested it.

Q. (By Mr. Prael) You requested that meeting?

[Tr. 1025] A. I believe so.

Q. And it was at the Congress Hotel?

A. Yes.

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Q. (By Mr. Prael) And did you say how long this meeting lasted?

A. I would say it didn't exceed an hour; it might have been less.

Q. At this meeting just the three of you were present?

A. Yes, sir.

Q. Would you tell us what the conversation was, relating what was said and the exact words if you recall the words, and who said it? Otherwise, the substance of your discussion at that time.

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[Tr. 1026] A. There was an opening discussion among the three of us about the differences between the parties and how they might be settled, what we had to do. Earl said—

Q. (By Mr. Prael—interrupting) Earl is Mr. Hartley?

A. Yes.

(Continuing) —Mr. Hartley said it was real simple to open up the purse strings and get them out on the table and we could take care of it. It is real simple, you know, to do it, get the purse strings open. I said I was aware of that method.

He said something to the effect, perhaps not exactly, but he said, "Lowry, the whole problem in this thing is your [Tr. 1027] not being heard in the sound-proof rooms", and I said, "I don't know what that means, exactly, but I have got an idea." He said, "Well, the big boys in the industry are not listening to you. You fellows in the Association are doing a reasonable enough job representing the parties. I haven't got any beef at you. You are not being heard, the purse strings have to be opened up. We have to get this thing done or there is going to be a strike and there is not question about it. We have got a big strike vote, we have got to do it and get at it."

Mr. Johnston made some suggestions to me about the position they felt they were in and what really needed to be done to solve this thing and he and I reached an agreement on the fact that a strike is—was going to be a very poor answer to this problem and it ought to be avoided.

It was going to be tragic and not come out well, and nobody was going to win it and we sure ought to get it squared away. And I said we certainly should but the economics are certainly beyond us and he said that if we didn't open up the purse strings and if this was the best we could do, this was going to be a strike and we were not likely going to strike the whole Association, or words to that effect.

I cannot recall exactly how it was said, but the very definite inference was that all members, all member plants of the Association would not be struck if indeed they decided [Tr. 1028] to strike, and he indicated that they would no doubt so decide, and I said if that happens, the rest of the Association is certainly going to go down, Association plants would be closed, if that happened, and Mr. Hartley asked me, "Do you think you are legal", and I sort of

laughed and said, "Well, I guess that may not be decided by you or I, but if that becomes a question, it will not doubt be decided by others at some time in some other proceeding".

We had some more discussion about the need to get the purse strings opened up. I don't recall that we talked about, we may have, but I can't recall any discussions of other things. There may have been something still on master contract or hours of labor. Yes, I think I probably said that the hours of labor, I don't know, that is all that I can specifically recall about the subject matter of that meeting.

Q. Were any further offers made at that meeting, one way or the other?

A. No, I think not.

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[Tr. 1029] Q. (By Mr. Prael) During these negotiations, Mr. Wyatt, was the Association sometimes referred to as the Big Six?

A. Quite often.

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[Tr. 1038] Q. (By Mr. Prael) At the conclusion of your testimony yesterday, you were testifying regarding a meeting, or meetings, I believe there were two meetings, on June 3, 1963. Have you testified to all of the meetings that you participated in with [Tr. 1039] representatives of the LSW on that date?

A. Yes.

Q. Was there a meeting the following day with representatives of the LSW?

A. June 4?

Q. June 4.

I believe the record already shows there was a meeting on that day with the IWA representatives.

A. Yes, there was a meeting with the IWA, and no, I don't recall any meeting with the LSW on June 4.

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Q. (By Mr. Prael) There was a strike of certain operations of the St. Regis Company and U. S. Plywood Company June 5?

A. Yes.

Q. And the record already shows that certain operations of the member companies of the Association were shut down? Do you recall that?

A. Yes.

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Q. (By Mr. Prael) Were they all struck?

[Tr. 1040] A. I don't believe that all of the plants at U. S. Plywood were struck, not all of them I don't believe.

Q. Some of them were?

A. Yes.

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Q. (By Mr. Prael) You testified regarding a meeting that was held on June 5, 1963, of the representatives of the member companies of the Association, do you recall that?

A. Yes.

[Tr. 1041] Q. Was a report given at that time of plants struck?

A. Yes, there was a report at that time.

Q. Do you recall what plants were reported as struck at that meeting?

A. No, sir, I couldn't name them. There were substantial percentages of the operations listed in Exhibit A owned by U. S. Plywood and St. Regis reported as being struck. I can't name them; which were and which weren't.

Q. I will show you R-359, which are minutes relating to a meeting of the employers and ask you to look that over.

Does that refresh your recollection in any respect as to the plants that were reported struck on that day? Having reviewed R-359, is your recollection refreshed in any respect regarding the plants reported shut down at that time on June 5?

A. Yes.

Q. Would you tell us——

A. (Interrupting) St. Regis Paper Company reported that all of their operations listed in Exhibit A in the Association agreement were struck, involved, or represented by each of the two unions. U. S. Plywood reported that 14, some 14 operations were struck and two LSW operations were not struck. The unstruck operations involved some 77 people, it was reported, and the struck operations some 3,100 people.

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[Tr. 1042] Q. (By Mr. Prael) LSW is the Carpenters and Joiners Union, is it not?

A. It is—I don't know what the right word is—it is a subdivision or affiliate of that, yes.

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[Tr. 1044] Q. (By Mr. Prael) I believe you already testified that there was a meeting on June 18, with Mr. Harvey Nelson, with the IWA. Do you recall that?

A. Yes.

Q. And in testifying on that meeting you referred to the fact that you met on the same day in Portland with Mr. Earl Hartley.

A. Yes.

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Q. (By Mr. Prael) I believe you also testified that the meeting of Mr. Hartley occurred shortly after the meeting with Mr. Nelson.

A. Yes.

Q. They were separate meetings?

A. Yes.

[Tr. 1045] Q. Both meetings, as I understood your testimony, occurred sometime during the morning or the forenoon?

A. Yes, sir. I don't know if the second one ended by 12 but it ended in the mid-day.

Q. Who was present at that meeting beside yourself and Mr. Hartley?

A. Mr. LeRoy Smith of the Federal Mediation and Conciliation service.

Q. Do you recall where this meeting took place?

A. Yes.

Q. Where was it?

A. At the Multnomah Hotel in Portland, Oregon.

Q. No one else was present besides yourself, Mr. Hartley, and Mr. Smith, is that correct?

A. That is correct.

Q. Could you tell me as nearly as you can what was said during this meeting by each of the individuals, the exact words, if you recall it, if not, the substance of what was said, as nearly as you can recall it?

A. Commissioner Smith opened the meeting by saying to the two of us that the strike was a serious matter in the Northwest economy, that he was under considerable pressure to bring the parties together and get this matter settled. If he was unable to do so, there was increasing possibility in his mind that various of his superiors or other people in government or [Tr. 1046] politics were ready to come in and lend their efforts to a settlement and he expressed himself as believing this to be an undesirable thing if it did happen and he would much prefer to see the parties get together and dispose of this matter before any further hardship was caused.

He wanted us to spend the time we were together there in finding a way to do it. Mr. Hartley, as I recall, said something to the effect that the answer was really quite simple, "If Lowry would loosen up the purse strings and the Association would loosen up the purse strings and get it out on the table, we could dispose of it."

Q. By Lowry, he was referring to you?

A. He was referring to me.

(Continuing) He said he knew what the problem was and I knew what the problem was and we had to get me, Wyatt, and I am referring to myself, to get me a little more influential in the sound-proof rooms of these various companies where they weren't concerned about the people that worked for them that were represented by his union.

He recognized that I probably didn't have authority at that point to change the wage offer, perhaps, but that was the key and it was time to get the show on the road, and loosen up the purse strings was the phrase that I recall him using a few times, and get this matter settled.

I replied extensively with some thoughts about the economics of the industry and the economic advisability of increasing the wage offer and the bargaining of tactical advisability, in view of the wide difference between the sixty cent position then being taken by the Lumber and Sawmill Workers and the position taken by the Association, and said that in my experience this was not a good situation in which to inject new offers on behalf of the Association.

I pointed out, as I believe I did in the earlier meeting, that very frankly the position of the employers and the Association members had, if anything, firmed up some since the strike, owing to the fact that they were aware that unfair labor charges had been placed against them—

Q. (Interrupting) May I interrupt for the purpose of the record. It already appears in the record that unfair labor practice charges were filed by the LSW in Case 19-CA-2652 on June 14, 1963.

A. (Continuing) —and that some of our members felt that the tactics of the union with respect to the Association, by then known as the Bix Six, seemed to indicate that their objective was to clobber the Big Six right off the bat. I think I expressed myself that I understood some of these things from prior bargaining experience and was not personally disturbed, but did want him to know that these things were disturbing to industry representatives who are not rather continuously engaged in collective bargaining.

Mr. Hartley replied that he certainly had no intention [Tr. 1048] then nor at any time to do anything to disturb the relationship with the Association or cause it to go out of existence, that he thought at the beginning that it was a good thing for the industry, that it was still a good thing and that it was his opinion as of that time that it was still a proper kind of move and should be continued and he

did not want to do anything, even if he could, to destroy it or cause it in some way to go out of existence.

He said that that the unfair labor practice charges, in his mind, was a tactic, I think was his word, and he gave me, he indicated a—

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A. (Continuing) He quoted an analogy, that in situations of this kind in his career, he had been known to raise a blanket of commotion over an empty boxcar and he was not terribly concerned about the boxcar but it did give the boys something to think about during the strike, and that it was just that and that shouldn't stand in the way of our getting together.

Then we, Mr. Hartley and I, launched into a fairly considerable economic analysis of the lumber industry and the markets at the present time, both of us delivering ourself of learned treatises on the subject, having to do with the price of stumpage and conversion of profits and the capital gains taxes versus taxes on our income, things of this kind, of a [Tr. 1049] wide variety, including the competitive positions in the market place and Mr. Hartley pointed out that there had been some rather considerable increases in the price of plywood and others of our products, our industry products, since the beginning of the strike, and I said I was aware of that and it must be pleasant for those that were running but I had no illusions in my own mind about what would happen to those price level, when normal operations were resumed.

I don't think there was anything more in the meeting prior to my making a request of Mr. Hartley to agree and ask his local unions to agree that personnel represented by his union be allowed to construct fire roads, fire access roads, and fire trails in the woods during this period. I pointed out that it was summer coming on and the woods were drying out, there was an excessive amount of down timber on the ground from the October 12 storm and that down timber, blowed down as he was well aware, presented a real fire hazard. If a fire should start the down

timber would cause it to spread and in the absence of fire roads and access roads, there could be a catastrophe.

Mr. Hartley indicated that he did understand that readily and he asked me if I had discussed it with the International Woodworkers, Mr. Nelson, and if so, what Mr. Nelson's reaction had been, and I said that Mr. Nelson had expressed himself as being willing to advise his locals to perform such work, and [Tr. 1050] Mr. Hartley said he had no objection and would so advise his locals.

Mr. Smith then suggested the advisability of our agreeing to a meeting of the full committees and see if we couldn't resolve this matter and we had some discussion as to the desirability of time of the meeting; should it be soon or later.

Mr. Hartley, as I recall, said that he didn't think a meeting would be of much value until some date quite in the future. I don't recall the date that he used, but it was sometime further off that I thought might be a desirable time to meet, but at any rate, we had some discussion about the desirability of the date and Earl said, or Mr. Hartley said that he, of course, would be willing to meet at any time the conciliator wished to call a meeting, that his committee would be willing to meet, and I indicated the same thing.

I don't recall whether a date was set or not set. I think we both said if you, Mr. Smith, desire to call us, we will both be present. I recall nothing more substantive other than in the breaking up period Mr. Hartley did say that he had the best of feeling toward the effort that we were making. He went so far as to compliment the spokesman for the Association as doing a good job with what he had to work with and he was sorry that I was so ineffective in the sound-proof rooms, but that we were doing a good job, and that is all that I can recall.

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[Tr. 1051] Q. (By Mr. Prael) During the meeting you have described of June 18, did Mr. Hartley, on behalf of the union, make any wage offer or changes in the previous

offer that may have been made by the union as regarding wages, as you recall?

A. Yes, I believe he did indicate a position, a possible position other than the 60 cents which had still, was still the official position of the union.

It seems to me that he did indicate that he might be able to sell something less than that.

Q. Was he having trouble with the sound-proof room on the union side, too?

A. No, I don't believe that he inferred that at all. I think what he said was, I think he stated, a new approach with respect to cost or with respect to wages, and said something to the effect "I might even have trouble selling that," or words to that effect.

Q. Is that all that you recall of that meeting at the present time?

A. Yes, sir.

[Tr. 1052] Q. After that meeting where did you go? This was in Portland, I believe you already testified you went back—

A. (Interrupting) Yes, I went to the airport and flew back to Tacoma.

Q. And approximately when did you get to Tacoma? Was it during the daytime or evening?

A. It was early, very early in the afternoon.

Q. Did you—I believe you have already testified—dictate notes or minutes of that conversation that date?

A. Yes, sir.

Q. And to whom did you dictate these notes?

A. Mr. Oliver Malm's secretary.

Q. I will show you the Respondents' Exhibit No. 358 and ask you if you recognize that.

A. These are the notes that I dictated. A copy of them.

Q. That is a copy of the notes that you dictated on the afternoon of June 18, 1963?

A. Yes, sir.

Q. Do those notes correctly state your recollection as of the time that they were dictated, that is, the recollection of the meeting that happened a few hours before?

A. Yes, sir.

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[Tr. 1054] Q. (By Mr. Prael) You just read R-358. Does that refresh your recollection any further regarding the meeting of June 18, 1963, between yourself and Mr. Hartley in the presence of Federal Conciliator Smith?

A. Yes, it corroborates the fact that Mr. Hartley did indicate a different possible minimum position on wages. It indicates that Mr. Smith, or refreshes my recollection to the extent that I recall Mr. Smith requesting of Mr. Hartley and me permission to make an announcement or to announce that this meeting between the three of us had been held and that he felt it would relieve some pressure that was on the Conciliation Service to get something done and get some meetings held, if he could state, in effect, that he had met with representatives of the parties and Mr. Hartley and I both voiced no objection to Mr. Smith indicating publicly that such a meeting was held if that should be his desire.

Q. Have you testified to all that you can presently recollect, regarding the meeting of June 18, 1963?

A. Yes, I believe I have.

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[Tr. 1055] Q. (By Mr. Prael) I will show you the letter, Mr. Wyatt. It is addressed to Weyerhaeuser Company, Mr. Lowry Wyatt, and I ask you if you recall when you first saw that letter.

A. No, sir, I don't recall exactly when I saw it. Observing the received stamp affixed in my office, I would presume that I saw it either very late in the day of July 1, or perhaps the next day. I wouldn't have seen it before mid-afternoon on the 1st, I would say, because I was in a meeting in Portland the morning of the 1st. I don't know exactly when, except if I take this stamp and go to the fact that we were meeting with the Lumber and Sawmill Workers in Portland all morning on the 1st, it must have been late in the day of the 1st or on the 2nd.

Q. The stamp indicated that it was received in your office in Tacoma on July 1, which was a Monday?

A. Yes, sir.

Q. And on that day you say that you were in Portland at a further meeting with the LSW?

A. Yes, I was.

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[Tr. 1056] Q. (By Mr. Prael) Mr. Wyatt, you say that you had a meeting on July 1. When you say you, did the Association meet with the representatives of the LSW on July 1?

A. Yes.

Q. And where did they meet?

A. It was in Portland and I believe that this was the meeting that we moved from the Heathman to the Masonic Temple; I believe we met in the Masonic Temple on July 1.

Q. And at that meeting, who represented the Association, who was the spokesman?

[Tr. 1057] A. I was the spokesman.

Q. Were other members of the negotiating committee of the Association present?

A. Yes, sir.

Q. Who was the spokesman for the LSW at that meeting?

A. Mr. Earl Hartley, assisted by Mr. Daniel Johnston.

Q. Were there officials and members of the LSW bargaining committee present?

A. Yes, there were a number of them.

Q. Was there any representative of the Federal Mediation and Conciliation Service present?

A. Yes, sir, there was, as I recall.

Q. Was there any official connected with the IWA present?

A. Yes, there were.

Q. Did they participate in the negotiations that occurred that day?

A. No, I think not. I think they said they were observers.

Q. Do you recall what time of day this meeting was held?

A. Not precisely, sir, except that it was held in the morning is my recollection.

Q. Was this the meeting called by the Conciliation Service?

A. Yes, I guess it was, I believe it was.

Q. And this was the first meeting called by the Conciliations Service after the June 18 meeting that you have testified to, is that correct, the one with you and Mr. Hartley and Mr. [Tr. 1058] Smith of the Conciliation Service?

A. This is the first one, sir, called by the Conciliation Service after June 18 involving the Lumber and Sawmill Workers.

Q. I mean involving the Lumber and Sawmill Workers, yes.

A. There was one called by the Conciliation Service on June 27 involving the International Woodworkers. This is the first one called by the Conciliation Service relative to the bargaining with the Lumber and Sawmill Workers.

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Q. (By Mr. Prael) Mr. Wyatt, can you tell me, as nearly as you can, what occurred at this meeting on July 1, 1963, between the representatives and negotiators for the Association, on the one hand, and representatives and negotiators of the LSW, on the other hand?

A. I believe I can, in part. It seems to me the conciliator made some sort of an opening statement indicating that he would like the parties to review their positions and see what we could do to reach an agreement and end the strike and shutdown.

[Tr. 1059] Quite early in the meeting, if not right at that point, Mr. Johnston or Mr. Hartley, I don't recall which one, one of them asked the conciliator who was Mr. Smith, I believe, who called the meeting and how did he call it, or with whom did he call it or who did he contact in calling it. Mr. Smith replied that had set up the meeting by calling Mr. Hartley for LSW and Mr. Wyatt for the Association.

At this point Mr. Johnston made a statement to the effect that he wanted to make it clear—these are not the exact words but they will be the sense of the statement—that the Lumber and Sawmill Workers were there today

meeting with five companies and not with an association, as such, and that he was not concerned and it was quite satisfactory to the Lumber and Sawmill Workers for these five companies to be speaking through an agent or an appointed spokesman or anyone that they would like to have represent them, but he wanted it perfectly clear that they were meeting with five separate companies and that there was a lockout in progress, as he put it, and that action on the part of the companies made it necessary to point out this position and that he had been in representing the Lumber and Sawmill Workers seeking an Association contract, as he put it as this time, and the Association had rejected the contract or had rejected or had not been willing to, I believe he said, didn't have the authority to negotiate or give to the union an Association contract and if they were to go ahead and [Tr. 1060] bargain with an association they would have to ask that they were granted an Association contract.

I replied that we were there and we had been throughout all of the meetings, as an Association, with full authority to negotiate an Association contract if that was considered by us desirable, that I could meet on no other basis than an Association and that if Mr. Johnston had stated the position of the union and that was their final position, that the meeting was no doubt over and couldn't be continued.

Mr. Johnston asked me some questions about authority. I believe he may have asked me whether we had authority to, the Association or the companies, as he referred to us in that meeting, had authority to do anything except to say no, or could we say yes, and I indicated that we had authority to reach an Association agreement binding all of the companies and that we were an Association and that is the only basis on which we would meet.

There was some debate back and forth for a period of time and I can't recall the specific statements. The sense of the discussion was that I insisted that an agreement reached between the Association and the union as a result of these negotiations was in any definition or any argument over semantics that I knew, was a contract and was an Association contract covering those items that were set forth

in the document, and I felt that the thing requested by the union was a [Tr. 1061] uniform contract of some kind that would establish uniform provisions throughout associate member plants. In other words, referring back to the prior discussions of this matter of master contract, uniform agreement, and standard agreement, and so on and that the injection at this time of the term Association contract seemed to me to relate only to the previous discussion and that certainly we were bargaining to an Association contract, most certainly, even though certain provisions of the total agreement between the member companies and the LSW might not be uniform as a result of the first year's bargaining.

I have not attempted to put the exact words in the discussion but that is my recollection of what it was about and the positions taken.

At this point the conciliator suggested a caucus and he meant with the representatives of the Lumber and Sawmill Workers and himself, and then he came and met with us separately; briefly we reassembled, the full groups, and the conciliator indicated that the Lumber and Sawmill Workers had indicated their willingness to listen to any position, to hear any position that we might have to suggest or change of position and requested us, if we had one to announce it, and I replied that we did have one, a change of position, which was that it could be understood that in making it was not conditional upon necessarily agreeing [Tr. 1062] with the positions of the unions as expressed earlier in the meeting.

I don't recall how that, I don't recall just exactly how that untangled itself prior to my making the proposal, but at any rate, it was indicated that the unions were ready to hear any proposal that we had. I proceeded to indicate—I don't think we had an entire new proposal, but we had some changes in the previous one. I remember two parts of it and there may have been another part.

One part is that I indicated that we would no longer seek the Tuesday-through-Saturday work week for plants personnel which we had been seeking and discussing in prior sessions. I said, in effect, we would drop that request, and

secondly, I redefined, rediscussed our hours of labor opening, our request for the seven-day three-shift schedule, and emphasized that we were not talking about this proposal in the context of woods operations which had been bandied about in the various areas where the strikes and shutdowns were occurring, that our request in the regard had been greatly magnified since the strike had started in my opinion and I wanted to make it clear that we were seeking this kind of thing, an arrangement only in operation which lent themselves to a 7-day, continuous type operation, for example, plywood plants, particle board plants, hardboard plants, flake board plants of the nature, that I knew that individuals subject to these kinds of schedules would have concern about being protected by rapid [Tr. 1063] changes of schedule. In other words, seven days a week this week and then drop to a five, and then go back to a seven, and so on; that this would be a concern to individuals working in such plants and that we certainly do work out safeguards against the off-again-on-again possibility.

There may have been another change. Incidentally, I should say that we had not, I don't believe, limited our request for this provision in this particular manner previously, prior to this meeting. I think this was the first time that we spelled out in one-syllable words that we were concerned with this only in continuous type operations.

There was some questions from various members of the Lumber and Sawmill Workers bargaining committee on what I meant and what would happen under certain circumstances. Someone asked, I think, whether this could mean that we could run seven days for six weeks and then shut off and do it some other way, and I said, well, something to the effect that you have mentioned six weeks, I don't know what the period might be, but it sounds like you might be right, we could change perhaps after six weeks, or something to this effect, and a number of others.

Somebody asked if it would be effective in sawmills and there were various questions on that proposal. As I already said, I am not sure but what we made another change in the meeting, but there were those two.

[Tr. 1064] At about this point in the meeting one or the other of the union spokesmen, either Mr. Johnston or Mr. Hartley, I believe—it might have been Mr. Prusia—one member of the union committee handed some letters to various members of the Association bargaining committee. One was handed to me. An envelope, I should say a sealed envelope, was handed, one to me and one to Mr. Greeley, and if I am not mistaken, Mr. Boddy received one. At any rate, some five of us received these envelopes at about this point in the meeting. The discussion went on—

Q. (Interrupting) Was there any reference to wages?

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A. Yes, there was considerable discussion of wages undertaken, primarily, as I recall, by Mr. Cassidy. George made quite a few comments about the wage offer and, as I recall, he said it was time for the employers to make a new offer.

Mr. Johnston said this, also, at one time, and I said I could say the same thing about your position. Perhaps you could make a new offer, and get things rolling, and George said that the Lumber industries were about the lowest paid in the Northwest and it was time that the employers took a look at it and did something about it. We exchanged quite a few pleasantries about why we didn't make an offer and why we couldn't make an offer and we indicated the same could go for [Tr. 1065] you, we have made several changes of position and as far as we know you are still sticking on 60 cents an hour, and things of this kind.

There may have been something else in that meeting, but very shortly it was adjourned subject to call.

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Q. (By Mr. Prael) Mr. Wyatt, I have shown you R-357, which are notes or some minutes of the meeting of July 1, 1963, between the Association and the LSW. Does that refresh your recollection as to any further occurrences or events of the meeting of July 1, 1963, to which you have not already testified?

A. I testified, generally, to everything that refreshes. There are a few details of some of the discussions that I had forgotten.

Q. What is your recollection in that regard at the present time?

[Tr. 1066] A. I recall that in addition to supporting their unwillingness to recognize us as an association but rather only as five individual companies, the unions also pointed out that we had excluded certain operations of St. Regis, to wit, Libby and Klickitat, and indicated that this also caused them to change their view or at least to take the position that we were five separate companies and not an association.

I responded that it seemed to me that we had made our position clear with respect to Libby and Klickitat at a much earlier meeting, and, in fact, the meeting of May 9 or 10, and that I was aware of the fact, or had heard that separate negotiations were even taking place or had taken place in those locations and there had either been a strike or threat of a strike and some litigation or restraining orders with respect to it.

I felt that that issue had been discussed and settled much earlier than the present time. When we got to making our offer—I mean our two changes—and the document I reviewed corroborates the fact that there were just two, there was not another one, just the two that I mentioned—when we got to wages, Mr. Johnston did join in and indicate that this thing couldn't be settled if we didn't get the wages in perspective, that we weren't anywhere near that point, and at one point in the discussion said that he thought it was quite advisable we let the lawyers argue technicalities and we go on and get the [Tr. 1067] wages settled and that the issue was wages and we ought to get squared away.

Then Mr. Cassidy joined in and there was a by-play about how automation and our offer on it, that we should get it settled. After some further wage discussion back and forth, it was Mr. Hartley that said he didn't think we were getting anywhere on this basis and we probably ought to recess subject to call, and we did.

Q. You say that during that meeting—is that all that you presently recall?

A. Yes, it is.

Q. You say that during that meeting a sealed envelope was handed to you and a sealed envelope was also handed to other representatives of the member companies of the Association?

A. Yes.

Q. When did you open your envelope?

A. Just a few minutes after we left the meeting, after it adjourned.

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Q. (By Mr. Prael) I show you R-214, Mr. Wyatt, and ask you if you found this letter in the envelope after the meeting?

A. I believe this is the letter; my recollection is that [Tr. 1068] this is the letter that was in the envelope.

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[Tr. 1069] Q. (By Mr. Prael) I will show you 216, Mr. Wyatt, and ask you if this is a copy sent to Mr. Hartley on or about July 5, 1963. This letter, as you will note, refers to the letter of July 1, 1963, which was, to quote, "this letter handed to the writer by Dan Johnston, one of your union representatives, in a sealed envelope."

A. Yes, this appears to be a copy of the letter I sent to Mr. Hartley on July 5.

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[Tr. 1070] Q. (By Mr. Prael) This R-216 is a reply to R-214, is it not?

A. It was a reply to the letter handed to me at the meeting in the sealed envelope.

Q. Which has been identified as R-214?

A. Yes.

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Q. (By Mr. Prael) Is this a copy of the letter that you [Tr. 1071] sent on that day to Mr. Hartley, or about that day?

A. Yes.

Q. This letter, I notice, you signed only as Lowry Wyatt; 216 is signed Lowry Wyatt, Chairman of the Negotiating Committee of the Employers Association. Was that true of the original that you sent to Mr. Hartley?

A. On this letter?

Q. Yes.

A. The original as is stated which—

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Q. (By Mr. Prael) Was as it is shown in the copy, was signed by you as Chairman of the Negotiating Committee?

A. Yes.

Q. Exhibit 217 did not contain that designation, is that right?

A. Yes.

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[Tr. 1076] Q. (By Mr. Prael) Mr. Wyatt, you have already testified [Tr. 1077] that late in July, in fact on the 15th of July, a meeting was held between yourself and the Association bargaining committee, with the committee representing the IWA and a committee representing the LSW, at which certain events took place. I believe you testified at that time that you were handed, as read to you, a letter or statement by the IWA which has been identified and introduced into evidence as R-163. Do you recall that?

A. Yes.

Q. At the same time your testimony refers to the fact that Mr. Hartley read a statement or letter?

A. Yes.

Q. I will show you R-214, which is a letter of July 1, 1963, and ask you if that is the letter that Mr. Hartley read at that meeting.

A. I believe it is.

Q. And after that meeting that was read by Mr. Hartley at the July 15 meeting, what did you say and what did you do?

A. I said the meeting is over. I meant the bargaining between us at that time, the bargaining meeting.

Q. Later you prepared, I believe your testimony shows, you prepared and presented to the union R-164, which is the Association statement, is that correct?

A. Yes.

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[Tr. 1081] Cross-examination.

Q. (By Mr. Byrholdt) Mr. Wyatt, going back into the history of the relationship between the Lumber manufacturers in the Northwest and the LSW and the IWA, and their local unions, would you relate briefly the manner of bargaining between these companies—I am not just talking about respondents—generally, how their negotiations were conducted between the lumber manufacturers and the two unions referred to?

A. First, let me stay that prior to 1957 this experience is by reading and being told about it and learning about it from others. Since 1957 it is personal experience.

What I have heard about this relationship and the conduct [Tr. 1082] of bargaining prior to 1957, was that it was typified by a number of bargaining associations, as it were, none of whom to my knowledge had arrangements in which the membership or companies bargaining through that vehicle were fully bound to a common result, but they nonetheless did perform a bargaining function, they—the associations—performed a bargaining function for the membership, winding up with a recommendation ordinarily and among those associations, but there may have been others.

There were such organizations as the Lumbermens Industrial Relations Committee; the Oregon Coast Operators; the Willamette Valley Lumber Operators; the Timber Operators—no, that was later—Timber Products Operators; the Pine Industrial Relations Committee. And then

in later, more recent times, the Forest Products Operators and the Timber Operators Council, and these associations represented various groups of employers and plants at various times that membership tended to change from time to time, and there were always a number of independents, so-called independents, meaning that they did not belong to or did not bargain through or by any of these associations structures that I have named. So, the pattern would be a number of negotiations with specific independents. Some negotiations on single plants and some negotiations carried out by these associations, as it were.

Q. Would you say the bulk of the negotiations were joint for [Tr. 1083] the purpose of bargaining?

A. Joint? You mean through an association?

Q. Yes, most of the manufacturers in the industry bargaining through such groups.

A. In terms of number of companies bargaining through an association structure versus an independent—

Q. (Interrupting): Not referring now to the very, very small, side-hill manufacturer.

A. Yes, I understand your question.

Understand first that there were two kinds of membership to an association, you could belong to it and not bargain with it; your membership was really in support of the association and perhaps some grievance services, contract comparison services, negotiation advice, and things of that kind, and yet you didn't give your bargaining authority to this association, and in others you did agree to bargain.

If the conclusion of the association was not to your liking you were free not to accept it and continue to bargain with the particular union. I am sorry, I digressed.

I am not sure which one would have been the preponderance, but if we could eliminate the single, circular saws around the industry, I would presume probably the majority were hooked up with one or the other of these association.

Q. Do you know which one of those associations that Weyerhaeuser belonged to from time to time over the years?

[Tr. 1084] A. Yes, we belonged to the Pine Industrial Relations Committee or Council, the P.I.R.C., for quite a number of years, up until really a couple of years ago.

Q. Did they bargain for you during those years?

A. No.

Q. What was their relationship, referring to Weyerhaeuser, to P.I.R.C.?

A. It was one of support to the P.I.R.C., payment of dues, consultation with their paid staff, or the regular staff of P.I.R.C. We had an agreement in our contract at one mill, I think for a while, that provided a final step of grievance procedure might involve P.I.R.C. as some kind of a final step to refer a difficulty to. I don't recall it ever being used. It wasn't used in my time.

Q. When P.I.R.C. negotiated, what participation did Weyerhaeuser have in those negotiations?

A. None whatsoever.

Q. Did they sit in on them?

A. No, sir.

Q. What other associations did Weyerhaeuser belong to?

A. We belonged, prior to 1957, to either the Lumbermen's Industrial Relations Committee or the name that that organization had before it became L.I.R.C. If my memory serves me correctly it had another name at one time in its history prior to the time it became L.I.R.C., and we belonged to that association. [Tr. 1085] It seems to me that we—I am not sure of the date, it was not too long before I came to Weyerhaeuser Company—severed or resigned from, or no longer belonged to the L.I.R.C.

Q. What was Weyerhaeuser's relationship to that association?

A. Part of the time as a member, similar to P.I.R.C., and part of the time I believe we did bargain or had a bargaining association with L.I.R.C.

Q. When you had that relationship, referring to the bargaining relationship with L.I.R.C., what subjects did you delegate to that association for bargaining?

A. I haven't any idea, sir. I don't know.

Q. When was the L.I.R.C. organization representing Weyerhaeuser for bargaining purposes?

A. I can't tell you for certain. It was prior to 1957, I am certain of that, and I believe it was prior to 1956, also. Precisely the years, I really don't know. I don't know. My knowledge is based on the stories of bargaining sessions, which is why I believe we were at one time bargaining with them, sessions in which agreements took place among the operators of the employer members of the association on what the settlement ought to be, and there is a story, and I can't pin it, either in time or factual detail, but there was one that was always referred to as the year of the Weyerhaeuser nickel.

Q. Was this a case of Weyerhaeuser not going along with the L.I.R.C. settlement?

[Tr. 1086] A. I think it must have been, or either breaking out before the L.I.R.C. settlement, or making one of their own ahead of time, or something of this kind.

Q. With regard to these other associations, has Weyerhaeuser belonged to any other since L.I.R.C.?

A. No.

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Q. (By Mr. Byrholdt) As these associations represented their memberships, did they typically represent them on all issues?

A. I don't really know. I don't know. There were some organizations which I think were apart from any of these bargaining associations I mentioned that were, in effect, trusts of one kind or another. There is one called the Forest Industry Trust, or something of this order, which is a group of employers and group of unions really bound together for purposes of providing health and welfare benefits. There is such a trust as that in Northern California that some LSW unions are involved in, and I don't know the official name of that. It is known to me as the "Hazard Trust."

Q. Weyerhaeuser is not a member of that?

A. No, sir. But I mention that because it would seem to me that members of those trusts no doubt arrange health and [Tr. 1087] welfare through the vehicles of those

trusts rather than through any bargaining associations to which they may have belonged. I would say one other thing about your question. I am quite sure that local, single plant issues would have been reserved and have been reserved for years in the industry for local negotiations and settlement after some pattern umbrella on major issues had been reached. I think that would have been a typical pattern over the years.

Q. With regard to the other members of the so-called Association that is involved in the case, and the other five, has this typically been their course of bargaining; have they also belonged, from time to time, to these various bargaining associations?

A. Certainly some of them yes. I think most, if not all of them, belonged at one time or another to one or another of these kinds of associations.

Q. When these associations dealt on behalf of their members, how would the association represent them?

A. How did it represent them?

Q. In the negotiations, how were they typically represented?

A. Usually, I believe, with a paid—that is not significant—with an executive secretary or staff man, hired by the association, let's say, as such who would serve as a spokesman for those companies who had for the current year delegated their bargaining authority to "XYZ" association.

[Tr. 1088] Q. Would the members of the association also sit in on the negotiations, typically?

A. Well, sir, I have never been in one of them in my life. I would imagine they must have; I don't know, I am speculating.

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Q. (By Mr. Byrholdt) When was that formed?

A. 1960, I believe. I believe that was my testimony; that is my recollection.

Q. Do you know how it functions on behalf of its members?

A. I know that it has a staff hired by the T.O.C. I know that it has members who are both members who delegate bargaining authority and members who do not delegate, and when I use the term bargaining authority, I mean it would be more accurate to say bargain with and through the association. It does not include authority to bind them to an agreement unless they like it when they see it.

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[Tr. 1089] Q. Do they bargain for all subjects if they are members of that association? What I am trying to indicate, and probably was not clear in the last question, do the members of the T.O.C. submit all issues of negotiation through that association?

A. The honest answer to your question is that I don't really know by reason of the existence of the health and welfare trust of which I am aware that the tradition of local bargaining on truly local issues.

It would be my impression that those issues are probably not bargained by the T.O.C. or, if health and welfare is, I think it would be a matter of putting on another hat and bargaining for the trust at another time, as a separate thing. But that is an impression, I could be wrong. Somebody could come along and show me that they delegated everything.

Q. I take it, then, that a member develops a consensus which is projected by the negotiator on their behalf in the negotiations?

[Tr. 1090] A. I would assume so.

Q. Turning to 1961, are you familiar with the actual negotiations of the Timber Operators Council?

A. '61?

Q. Isn't that the last negotiating period in this industry in the northwest prior to 1963?

A. No, there was negotiations in '62.

Q. 1962?

A. Weren't there? Yes, there was bargaining in 1962.

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Q. (By Mr. Byrholdt) And do you know on what issues?

A. Well, certainly there was bargaining on wages in '62, and let me finish my recollection; there was bargaining on wages and one union, the IWA, after some bargaining, or I should say at some point in the bargaining, withdrew their demand or closed the contract without wage increase for another year, and the Lumber and Sawmill Workers, if my memory is right, just left the matter open. They didn't close it but neither did they press it or take any strike action, and in effect, the contracts just continued beyond their expiration date until 1963 bargaining, as I recall.

What other issues—I don't recall the 1962 openings, other [Tr.1091] than the fact that there was wages, and I remember that because I remember the way it would up; one union withdrew and the other let it run.

Q. Of the testimony you have given to date here on cross-examination, I take it that the patterns you refer to in the Northwest lumber industry relate to the bargaining that goes on between the companies with both the LSW and the IWA unions. Isn't that pattern typically the same?

A. You mean one union versus the other?

Q. You deal through these organizations, on one hand, with the LSW, and, on the other hand, the IWA.

A. That is my impression.

Q. They are the major representatives of the lumber employees in the area, are they not?

A. I would say you named the major ones. To my knowledge it is a similar pattern with each of the unions.

Q. With regard to the contractual relationships between the IWA and the LSW, and their constituent locals, what has been that relationship in past years among the respondents and the other members of the respondent Association?

A. You say between the International and the locals?

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[Tr. 1092] Q. (By Mr. Byrholdt) Mr. Wyatt, calling your attention to the contractual relationship between Weyer-

hauser and Crown Zellerbach and International Paper and Rayonier and United States Plywood and International Paper, how have these companies negotiated their collective agreements with the IWA and LSW?

A. Well, to speak about the one that I have personal knowledge with, which would be Weyerhaeuser, and taking the IWA, it has been typically a meeting between Weyerhaeuser, a Weyerhaeuser committee with a group such as the Western States Regional Council Negotiating Committee, and the locals have typically delegated bargaining authority to Western States Regional Council and Weyerhaeuser has, with a central committee, represented its plants who had contracts with IWA locals, [Tr. 1093] which locals had delegated bargaining authority to Western States Regional Council. That was not always all of them. There were sometimes little problems about one or another local and there were some times, I think, the examination of the delegations would show that it was typically a delegation on fairly specific areas.

Q. You are talking about the delegation of the local—

A. (Interrupting) Of the local to the Western Region saying that there are some things we are going to bargain locally and we delegate to the Western Regional Council authority to discuss wages, travel time, or something of this order. So we entered the bargaining, then, with the Western States Regional Council with certain delegations from local who had contracts with Weyerhaeuser Company, and Weyerhaeuser Company representing the various plants in those contracts, and an agreement would be reached by Western States Regional Council and our negotiating committee, and the provisions, whatever it was that was settled, would be made effective by each of our plants.

There could be, and often was, additional negotiations later at the local level on certain local issues which had not been bargained by the two committees. In other cases the two committees would agree to close all local issues in some cases as part of whatever settlement might have been reached.

Q. Do I understand you, then, that the region in Weyerhaeuser's case, the company would negotiate those issues

having a general [Tr. 1094] company impact, and leave others for local negotiation?

A. I would doubt that you could separate it on the basis of whether they had general impact. It would depend on what did either side open on. What did any particular local desire to delegate authority for or what did they desire to retain local autonomy to discuss. I think the variations in that pattern were quite wide year in and year out. I don't know whether you could generalize by saying that any particular common denominator could stand which were local and which were not.

Q. In any event, either the LSW at the Western Council level, and the IWA at the Regional level, only negotiated with the companies those issues that were delegated to it by its locals, is that correct?

A. I think that is correct.

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[Tr. 1095] Q. (By Mr. Byrholdt) They are typically not as I understand it.

A. The contracts would answer it. Well, I think they are all typically written that if they are not opened by either side in timely fashion they would be continuing. I think that much would be true.

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Q. (By Mr. Byrholdt) Mr. Wyatt, as to other so-called members of the Big Six, were there negotiations conducted with the LSW and the IWA in the same general fashion as you described Weyerhaeuser's negotiations were conducted?

A. I don't know, sir. At least some of them were not in that some of them, I am sure, at one time or another, bargained through one or another of the associations that we have been talking about.

Q. At least as to some subjects?

A. I don't know. I know that there have been times that one or another of the other five members did bargain with one of [Tr. 1096] these associations on the basis of joining

their bargaining. I cannot tell you my knowledge exactly how each of those companies have conducted it as to which ones have been in an association or when or even what association they bargained with.

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Q. (By Mr. Byrholdt) You know this of your own knowledge, do you, Mr. Wyatt?

A. Well, I haven't examined every delegation. I have been told and I have asked and made rather extensive investigations as to the way the association structures operate, and I have not ever found one that operated with a binding commitment on the part of a member who chose to bargain with them. I have not found such an arrangement, but I don't suppose that proves that there isn't one.

Q. In the lumber industry here in the Northwest, is it not true that the contracts between any given company and the IWA or LSW have been on a separate plant, separate operation basis?

A. This has been typical in Weyerhaeuser's case.

Q. Do you know of any instance of arrangements of another [Tr. 1097] type?

A. No, sir, I don't believe I do.

Q. Was that not true of all members of the Big Six in negotiations at all times in the past?

A. I don't know, I don't know whether it was or not.

Q. Well, now, Mr. Wyatt, did you not have a report made on the various contracts among the members of the Big Six?

A. Yes.

Q. And wasn't that report submitted to you?

A. I saw it, yes.

Q. And what did it indicate?

A. Widely varying provisions in each of the contract items throughout all of the various contracts between member companies and these two unions.

Q. The contracts were for separate plants and separate operations in each case, were they not?

A. What I meant when I said I don't know, certainly

each company had a number of contracts and one could presume that it might have been on a plant-by-plant basis. It was in Weyerhaeuser's case.

Q. Do you know of any member of the Big Six that had any other contractual arrangement with the charging parties here?

A. No, I don't.

Q. Your study that was submitted to you by Mr. Greeley didn't admit anything else, did it?

[Tr. 1098] A. Not that I recall, if you are saying did it reveal any single contract covering a group of plants. Is that what you are asking?

Q. Yes.

A. I don't know that it did.

Q. It didn't reveal any companywide contracts, did it?

A. I don't recall any, no.

Q. In the past you say that you have no recollection of any multi-employer association which was bound, am I correct in that?

A. The members of which were bound, that is what my statement was.

Q. Are you familiar with the Columbia Basin Loggers Association?

A. No, sir, I am not. I have heard the name.

Q. When did you receive the study that Mr. Greeley prepared for you?

A. I would think in the latter part of 1962. It is a little hazy but somewhere in December, perhaps, perhaps January '63. It was in that period of time.

Q. It outlined the various contractual differences among the different contracts with each of the companies, did it not?

A. In general, yes, that is my recollection. I haven't seen that study since then. It was, as I recall, a sort of a listing which said, like seniority, and then it would state the various [Tr. 1099] seniority provisions that were in existence, and this analysis covered all of the companies, the so-called Big Six.

Q. You say it covered all of the companies, the so-called Big Six?

A. Yes, and I think it may have included some more, too, more than the six. I am not sure.

Q. Incidentally, this term "Big Six" that we hear so often here, that is a name of some years' standing, is it not?

A. Some years' standing?

Q. Yes.

A. Not to my knowledge.

Q. You never heard of the Big Six until 1963?

A. I heard of the Big Six in connection with the athletic association of western universities.

Q. I mean in the lumber industry.

A. No; I thought it was coined by an Oregon reporter at some point in our negotiation or strike. I could be wrong, maybe there have been "Big Sixes" before. Nobody ever pointed out to me that we had inherited another name.

Q. We were talking about the authority that the Western Council of the LSW and the Region III has dealing on behalf of its local unions. It is specific, is it not, the authority that they have to represent these local unions?

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[Tr. 1100] A. It is my impression that those delegations, when we actually saw such delegations in writing, and that was not in a hundred per cent of the cases, they varied some years quite widely—

Q. (By Mr. Byrholdt—interrupting) You mean from year to year?

A. Yes.

Q. Yes.

A. (Continuing) —and I think that I have seen, I am not certain, but I think there were years that the delegation was almost a one-sentence delegation of the local delegating its bargaining authority to the Western States Regional Council, "yours very truly"; and I may be wrong in that, though, maybe it never was quite that broad. I don't know.

There certainly have been years that it was spelled out. I can't say never with specificity, specifically.

[Tr. 1101] Q. Turning to 1962, Mr. Wyatt, I think you indicated that you became somewhat interested in the possibility of bargaining in some form of association in the lumber industry in the Northwest, is that correct?

A. Yes, sir.

Q. Was this a subject that came about as a result of your independent experience; the subject came to your attention, is what I meant to say?

A. I would think that the first germ in my mind as to its relevancy or possibility in this situation, that is, the Northwest group, was probably when various industry representatives were struggling with the re-organization of the then existing associations. This is the transition from L.I.R.C., and a whole bunch of others, to F.P.O. as a kind of umbrella association over associations, and then the F.P.O. to the disbanding of a lot of these associations in the creation of T.O.C.

At various times in those discussions held by others, reports were written on the desirability of how they should re-organize, and so on, and that a number of times my company was asked, and I was asked, to sit in or listen in to a report that they had devised or to hear about a move they thought they might take. And on a couple of occasions, at least, we were asked if we wouldn't join some prospective association that was coming along and on a number of occasion I expressed myself to the individuals who were engaged in these discussions [Tr. 1102] that we could become indeed interested if the provision would, or if it would provide a fully-bound membership, but that if it was a matter of recommendation and we could be, or any member or any member joined could be in or out at the time of the recommendation, that I didn't think that Weyerhaeuser would be interested in rejoining such an association.

That was—I talked so long I forgot your question.

Your question was how did it start, and my belief is it was suggestions that started me to thinking about the desirability of some association in this group that would provide a membership of companies who were fully bound to a common result, without the opportunity for pulling

out at the time a settlement was made or a strike was taken, or whatever.

Q. When did you first express this concern to anyone within Weyerhaeuser Company, sir? Concern is probably not the word; this idea.

A. Gee, I don't think I could pin down the date or even a person. I think I probably talked this over with quite a number of people in our company, Billy Robertson, who is our manager at Longview, and Scott Witt, who was assisting me in labor relations at the time, and Oliver Malm, who represented us in labor relations matters, I think there were a number of occasions in probably '62, and '61 even, in which I said, "Really, this industry situation, this pattern, this number of bargainings, still impresses me that it needs an association that could [Tr. 1103] put the operators in the same room knowing that any agreement that came out of it would effect everybody in that room," or "We are never really going to make or draw up the kind of contracts that we are going to need for the future", and that this may have been all right, and no doubt was, for the industry in a great many of its years, but probably wasn't the answer for what we saw ahead and until we could take those competitors who were knocking each other over on the head in the market place and doing everything possible to gain competitive advantage, and bidding against each other for timber, as well as for the customers, until they all felt that a move on their part in a constructive direction would be matched at the same time by the move of the other members, it was always going to be, "I won't move until the other guy does." Finally somebody picks up a loose brick and finds a weakness, and everything goes together and no progress has been made.

That was my rationale and still is, and I probably discussed that in Weyerhaeuser rather considerably in '61, '62—

Q. (Interrupting) But I take it you made contacts in the industry to see if others were interested in the approach?

A. Yes, I did.

Q. When did you first start making contacts outside of the company?

A. I think my testimony shows it was probably just before, during, or perhaps just after the 1962 bargaining sessions, [Tr. 1104] which would place it in late spring or early summer of 1962, probably.

Q. What was your assignment in the company at that time?

A. Well, I was either vice-president of personnel, or I had just become vice-president and assistant to the executive vice-president in charge of the Woods Products Division, and I think that no doubt I had discussions with individuals outside of the industry when I was in both capacities, probably the first ones when I was first in personnel and later, after I left the personnel office.

Q. As this idea gained acceptance outside of the company, I take it certain committees were formed to carry out the examination of the potential of this approach, am I right?

A. Yes, as it moved along, we had appointed some committees to do some work.

Q. What were those committees?

A. I don't think we got into giving any of them a name, any more than the association did, but we referred to one of them that persisted through several different assignments, as the sub-committee. I don't think it had any other name.

Q. What were the assignments given the sub-committee?

A. I was trying to think which one was first. I think one of the early assignments was to—one of them, at least—was to make a survey of the existing contracts as they now were between prospective member companies and their local unions, [Tr. 1105] whichever it was, and they were told to show us how big the problem was, what sort of an animal would we have.

Q. I take it they produced the studies and analysis of them?

A. Yes, various studies; yes.

Q. What other problems did the sub-committee work out?

A. Well, they were asked to—one of these committees--

examine various ways that an association such as the one I had described could be put together. I think this committee was composed of Mr. Roberts, Mr. Hoffman, Mr. Greeley, and Mr. Boddy, yes, I think Mr. Greeley and Mr. Boddy both. At any rate, they were asked what were the ways, what were the things you could do, how could you do them. What were the practicalities of them, and so on, this type of review.

Q. And do you recall any of the other assignments that the committees had? We have only referred to one, I take it, this general sub-committee?

A. There were certainly a lot of interlocking assignments between those two committees. I think there may have been some additional people on one than there were on the others, and then there were also some members who served on more than one.

The assignment to which I just referred included, I think, a request by various of us who were principals in various companies considering this move. I think we included the thought that they might review such as they could the legal implications that might be involved in one or another approach. As [Tr. 1106] time moved and things got closer to the time, the time for spring bargaining and the time we began to think that there was a committee of interest. I think we suggested, I am sure we suggested that they should begin to write up suggested drafts of an agreement that might be used as the basic instrument for such a group.

As we got into openings, actually, or began to have a feeling for the issues that were going to be before us in '63, it seems to me that one or another of these committees, or an amalgamation of them, did some study on the impact of these particular openings on various companies, how they would affect another having in mind if we reached an agreement on any one that would have uniform application, we wanted to know what would be the result; a study of the issues we thought would be before us, the type and kind.

Q. And when were these reports submitted to you?

A. These later ones?

Q. Yes.

A. At, probably at several meetings. Perhaps just prior to, and certainly some after the formation of the association.

Q. Were they circularized by mail?

A. I don't recall any of those that were written. I think it was that there may have been, but I don't recall one. It was the kind of study we had to have done before we decided to open on hours of labor, for example, how important was that [Tr. 1107] to one company as opposed to another, and we had to face, we thought, rather squarely the fact that an opening of this kind, while it might be of extreme importance to Weyerhaeuser it might be of no importance at all and, in fact, was of no importance to one prospective member, to wit, to such companies.

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Q. (By Mr. Byrholdt) I take it while these committees were preparing these reports and legal analysis, you were, I understand, do I, the chairman of this group, you were co-ordinating it among the various companies?

A. Each time we got together I seemed to wind up at the head of the table until we began, and as such, did make recommendations to which sometimes the group agreed that we ought to have a committee do this and that and we will let Charlie serve and Bill serve and away they would go as a result of that. I recall at some meeting, either around the time of organization, that I said, "you know if and when this association is put together and it begins to bargain, somebody is going to have to do the talking or we are going to be a little confused if six of us might try to, or eight of us", and having opened my mouth, why—

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Q. (By Mr. Byrholdt) I take it that after it was formed you did become its spokesman?

[Tr. 1108] A. Yes, sir.

Q. I take it the role of spokesman required that all of

the activity of the organization be funneled through you, so to speak?

A. Well, as we got to the beginning of bargaining I made every effort and had some extremely capable people representing some member companies and I did everything possible to keep things from funnelling through me other than things that were specifically concerned with the bargaining itself.

We then had another committee which did have a meeting and we called it a Technical Committee, and it involved some of the same people again.

Q. When was it formed?

A. Oh, about the first bargaining session, I would say. It was formed by my saying to Hank Greeley each time we received a proposal from the union or they think about making one or we think about making one ourselves in order to reach an agreement to do that or not to do it, or to accept or reject, or to offer or not to offer, each time a decision is going to have to be reached, how much is this going to cost me versus the other fellow, what is this going to mean to Rayonier versus International Paper, how many people do we have in that classification, how many mechanics do we have compared to how many somebody else has, if we get to travel time how many loggers does one company have in percentage of total payroll versus another.

[Tr. 1109] In order so that each member of the committee could intelligently say yes, or the heck with it, let's take another approach, so that committee was charged with "you fellows pull together the statistics and don't give them to me, but you have them".

Q. This is when the studies came into their own?

A. The studies were helpful but they hadn't really gone into the kind of detail, what was the average rate of pay, how many mechanics did it have, or how many loggers, if you gave five cents an hour to journeymen, and what would that cost in total payroll, and they were the ones that had to come back with it and indicate Weyerhaeuser's .78 and Crown Zellerbach's 1.1, and so on, provision by provision.

Q. Would it be fair to say that commencing in 1963, in

the spring sometime, through the bargaining negotiations, this became a full-time job with you?

A. With me?

Q. Yes.

A. Virtually so, yes.

Q. I take it you co-ordinated the bargaining for all of the parties, with the assistance of these groups you have mentioned?

A. Yes, I would say if the bargaining was co-ordinated by the Association, I probably had a part in it.

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[Tr. 1111] A. Yes, I am still the chairman of the executive committee of the Association. I am.

Q. It still is an organization in being, is it not?

A. Oh, yes, yes.

Q. It meets regularly?

A. Not very regularly, no.

Q. Has it met this year?

A. Yes.

Q. And when was that?

A. Well, we met one time, It might have been before the end of the year, I can't recall. We met and had a meeting of the automation or study committee that we set up as part of the settlement and that committee did meet on one occasion with the unions' portion of the committee just to, no particular reason, other than to discuss anything that that was on anybody's mind [Tr. 1112] at the time.

Q. You are talking about the automation committee?

A. Yes. I don't recall when that meeting was. That was in Portland, an evening meeting.

Q. You were referring to some study travel time, were you?

A. No, no, there was some meetings of some Association representatives with the unions' committee about travel time at various times after the settlement and through the first of the year.

Q. Has the Association kept any minutes of the meeting since August 13, 1963?

A. I don't know. I believe—I don't know.

Q. When did you first see the minutes that were kept of the bargaining session in 1963 between the LSW and IWA?

A. Around the first part of August.

Q. Of 1963?

A. Yes.

Q. Now, Mr. Wyatt, the letters that announced the Big Six, written by the Big Six in April of 1963, had reserved certain subjects, did they not for negotiations?

A. I don't recall how that is worded in the letters, but yes.

Q. Do you recall those reservations?

A. Yes.

Q. How did they come about?

A. The question is a little—I don't know what you are after.

[Tr. 1113] Q. Who reserved those items? Was it a group decision?

A. Yes, all of the companies agreed to reserve those items subject to agreement by the unions if they agreed that they would be reserved.

Q. Let's take union security. Who had an interest in reserving union security?

A. Well, Weyerhaeuser did.

Q. Any of the other members?

A. Well, it depends on what you mean by interest.

Q. How did it come to be reserved, you tell me.

A. The group recognizing that only one company had union security, had other than a union shop arrangement and that that company had an agreement to make a specific change in its union security arrangement as part of a prior year's agreement could see no point at all in having union security discussed for any purpose. There wasn't any reason for it.

Q. Are you saying then that only Weyerhaeuser was concerned with that reservation?

A. Well, if you're—no, I don't think that would be correct.

Q. It was solely for Weyerhaeuser's benefit, was it not?

A. I don't see that any benefit accrued to Weyerhaeuser

by reserving it. We had an agreement to make a change in our union security arrangement.

Q. You could have made any other arrangement with regard to union security, couldn't you, to the Association by the agreement?

[Tr. 1114] A. Well, we had already a signed agreement to take a certain action with respect to our union security arrangement.

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Q. (By Mr. Byrholdt) Wasn't that reservation specifically at the Weyerhaeuser Company's request?

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A. Yes, or suggest at least.

Q. (By Mr. Byrholdt) And what about the other reservations of health and welfare? At whose request were they made?

A. I couldn't tell you. I don't know which individual may have been the first one to raise it, if any of them.

Q. And with regard to pensions?

A. Again, I couldn't tell you who raised it.

Q. You don't recall the St. Regis Company raising either of [Tr. 1115] those two issues?

A. I can recall that when the decision was reached to bargain those issues on a local basis rather than at the Association level that the agreement to do so were unanimous. If you are asking me which of the individuals in the meeting raised it as a subject for possible reservation first, I don't recall.

Q. Do you know that Mr. McMahon called the IWA about the reservation of pensions from the Association bargaining?

A. No, I didn't.

Q. Were not each of these reservations the unilateral determination of individual members of the Association?

A. May I have the question again, please.

(The pending question was read by the reporter.)

A. (Continuing) No, all members of the Association reserved the same issues.

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[Tr. 1116] Q. (By Mr. Byrholdt) Let's take pensions. Was that not reserved at the request of St. Regis Company?

A. I think not, I don't know. I would say that—I'm not sure that this is responsive, but there were at least two or three companies, two companies equally interested or equally amenable or equally desirous of reserving pensions from Association bargaining in this particular year, if that is what you are getting at.

Q. And which companies were those?

A. Crown Zellerbach, as I recall, U. S. Plywood, as I recall.

Q. Those were the two—

A. And our company. We were quite amenable and interested and believed in the desirability of reserving pensions because they were only opened by two companies. There was only a timely opening on pensions in 1963 by Weyerhaeuser and St. Regis and we thought it was much better to bargain those pensions as Weyerhaeuser and St. Regis when the Association bargaining was completed.

[Tr. 1117] Q. Now, what about health and welfare, can you tell me who specifically requested that reservation?

A. No, I cannot, no, I can't.

Q. Can you tell me why it was reserved?

A. Yes, I can give you my concept of why it was reserved because there were among the perspective members at the time companies whose health and welfare arrangements were made with a trust arrangement and in at least one case I believe that trust arrangement was up for negotiation and if we were to bargain a health and welfare matter at the Association level, they would in effect be, or such companies—I have forgotten if there were one or two, I believe there were two, I am not sure—they would be involved in the trust negotiations of which they were already a member and whatever negotiations might take

place at the Association level—and there were other companies, respective members who had no opening before them on health and welfare who had accomplished some prior closure on the matter and as a matter of very general discussion of the executive committee, we unanimously said well, we will attempt not to bargain that at the Association level in 1963 for those reasons.

Q. Now, did your association agreement, the one of April 22, require written notice to the Association of any reservations, does it not?

A. Without it before me, I don't recall.

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[Tr. 1118] Q. (By Mr. Byrholdt) Do you know if there is such a provision?

A. There is a provision like that. I don't know what it provides, I don't know what it is.

Q. And does not that provision require notice prior to opening with reservations by the members of the Association?

A. I cannot answer that without looking at it.

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[Tr. 1119] Q. (By Mr. Byrholdt) Have you examined the Association agreement, Mr. Wyatt?

A. Yes.

Q. Do you find in Paragraph 4 a requirement that you must give written notice in advance of opening as a group to one another of any reservations?

A. Yes.

Q. Was any such notice exchanged by any of the members of this Association?

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A. The only such notice was accomplished by giving each other member of the Association a copy of each company's letter which advised the union to my knowledge.

Q. (By Mr. Byrholdt) You are talking about the letters

that were sent by the companies to the union?

A. Yes.

[Tr. 1120] Q. No other notice was exchanged in conformity with the agreement?

A. Not that I recall on this point, just we agreed to send the Weyerhaeuser letter to all other five members and the Crown Zellerbach letter to all other five members and so on, and that that would accomplish the notice.

Q. Since the close of negotiations in 1963, are the members of the Big Six bound to act collectively in bargaining?

A. On any matters that might be opened to be bargained by the Association, yes.

Q. Would you explain that answer to me. I don't understand it.

A. I don't know what you mean between bargaining sessions.

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Q. (By Mr. Byrholdt) Was that your answer, Mr. Wyatt?

A. Yes.

[Tr. 1121] Q. Can the members of the Bix Six negotiate separately with the unions since they formed this Association?

A. They could handle a local arrangement or make a local change. I don't know that we have ever. My answer would be that a member company could make a local change if they agreed with the union involved.

Q. Would they be required to consult the Association in any way?

A. I think it would be—I know of no such requirement. It would seem to be good practice.

Q. Have there been any negotiations carried on to your knowledge by any members of the Big Six since the August 13, 1963, settlement with either the LSW or the IWA?

A. Negotiations?

Q. Yes.

A. Well, there—you mean where somebody has suggested a change—negotiations is a little broad. Could you tell me what you mean by negotiations?

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[Tr. 1122] Q. (By Mr. Byrholdt) Are the members of the Bix Six required to deal through the Big Six with the LSW and the IWA by the terms of their agreement?

A. Not in all of their relationships with those unions, I would say not.

Q. In what particulars are they not required to deal through the Association with the LSW and the IWA?

A. Well, in any of the particulars except matters opened for negotiation by the Association or the unions, one with the other in either direction.

Q. Any one member company then could negotiate or seek a change in the agreement on its own behalf without consulting the Association?

A. I would say on a local basis that would be possible.

Q. What do you mean by on a local basis?

A. Well, an individual—I would say between bargaining sessions when settlements are reached that it would be considered proper or at least not prohibited by the Association for a member company or a member plant to discuss and negotiate some change in that relationship, yes. I know of no prohibition against it.

Q. And it would not be in violation, you say, of the Association agreement?

A. I would think it would not.

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Q. (By Mr. Byrholdt) I am attempting to ascertain since the close of the negotiations in 1963 whether or not you have an Association as a representative, referring now to any member of the Six.

A. My answer would be that, yes, we have an Association.

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[Tr. 1127] Q. (By Mr. Byrholdt) You are saying now, Mr. Wyatt, that to your knowledge there have been no dealings by any member of the Association to modify the 1963 agreement?

A. To modify, any discussion at all to modify?

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[Tr. 1144] Q. (By Mr. Byrholdt) Calling your attention, Mr. Wyatt, to the LSW negotiation which commenced May 9, 1963, at which Mr. Johnston was the principal spokesman at that meeting. Is that correct?

A. Well, it was my impression that Mr. Hartley was the principal spokesman, although certainly Mr. Johnston participated as fully as Mr. Hartley.

Q. Did not Mr. Johnston do most of the speaking on behalf of the LSW at that meeting?

A. I would think so.

Q. At the outset of that meeting Mr. Johnston told you he was meeting with you on an exploratory basis, did he not?

A. I don't recall that word, sir.

Q. Didn't he tell you he met with you on that date to determine the nature of the Association?

A. I think words to that effect, yes.

[Tr. 1145] Q. Didn't he ask you if you had written authority to represent the six members of the Association?

A. I recall that he did.

Q. And he asked you whether or not you had a lockout agreement, did he not?

A. I think his words were "strike against one, a strike against all".

Q. In reference to an agreement?

A. I would say that would be in reference to a lack of an agreement.

Q. He was referring to whether or not you had such an agreement, was he not?

A. Yes.

Q. Your answer is yes?

A. Yes.

Q. And he asked you for copies of that agreement, did he not?

A. Yes, he asked if they were available.

Q. And none were made available to him, were they?

A. No, not then.

Q. In fact, none were made available until the respondents answered the complaint in this case, is that not true?

A. I do not recall when they were made available. They

were not made available at the time of the first meeting.

Q. You never furnished any copies of the Association agreement to any members of the LSW or IWA, did you?
[Tr. 1146] A. Does your question mean me personally?

Q. You and the Association.

A. I did not.

Q. You don't know of anyone else that did, do you?

A. No—well, you mean during the bargaining sessions?
It is my understanding that copies were ultimately made available.

Q. When?

A. I don't know.

Q. They were made available as attachment to the answer to the complaint in this proceeding, isn't that true?

A. I don't know that either. I don't know.

Q. They were never made available prior to June 5, 1963, were they?

A. I don't know that they were.

Q. You are the spokesman for the Association, you would know if anyone did make such an agreement available to them, would you not?

A. Well, I would think I would.

Q. Only members of the association had those agreements, is that not true?

A. I think that there could be no doubt their counsel had copies as well.

Q. Whose counsel?

A. Members of the Association.

Q. Would you repeat that answer again, I misunderstood you.

[Tr. 1147] A. Members of the Association.

Q. Had copies of the agreement?

A. And their counsel was my point, I believe, that their counsel had copies.

Q. At the time of the first meeting Mr. Johnson told you that the LSW was there to negotiate on all issues, did he not?

A. I can't recall his specific words; I think he made comments that would add up to that.

Q. He was unwilling to negotiate on just those issues

that the Association had set forth in their opening letters, is that not true?

A. That is true.

Q. Did you not respond to him and tell him that you were precluded from negotiating on the excluded items in the opening letter?

A. No.

Q. What did you tell him?

A. I told him that we were not limited to bargain just on the things that the Association opened on but also on the things that the union opened on.

Q. You could not bargain on the four items that were excluded, could you?

A. I don't know that we could not.

Q. You told him?

A. We certainly did not want to.

[Tr. 1148] Q. You told him you could not?

A. It is my recollection that I made clear that our position was that those items should be bargained and it was our position that they should be bargained locally with the individual companies.

Q. You told him the Association would not bargain on those four excluded items, didn't you?

A. No, I did not.

Q. Mr. Johnston also informed you that the LSW insisted that the five companies bargain for all of their plants represented by LSW, did he not?

A. Yes.

Q. And you refused to bargain with him on that basis, did you not?

A. Yes, I told him that we could not represent any of the plants other than those that were member plants of the Association.

Q. Those that the members had listed in their opener?

A. Yes.

Q. You told him that the St. Regis plants that were excluded could not be represented by the Association didn't you?

A. Yes, I did.

Q. You told him he would have to negotiate separately with Mr. Roberts in St. Regis for those plants?

A. I don't recall that I ever told him that, but I certainly [Tr. 1149] told him that they were free to break off the Association level bargaining if they insisted that the only basis they could proceed would be to include those plants. I told him that we could not handle them and that the Association—rather, at the association bargaining table and if they insisted on that that the bargaining would be at the end at that point.

Q. Is it not true that Mr. Doherty, at the first meeting, withdrew the Sonoma plant from Association bargaining?

A. Mr. Doherty—
May I have the question?

(The pending question read by the reporter.)

A. It was my understanding that, if it is the right plant, that this plant's contract was opened for only wages and was not generally opened by prior agreement of the parties, and that is the reason that U. S. Plywood had not included Sonoma as one of the Association plants.

Q. The Sonoma plant was listed on Exhibit A of the Association agreement, was it not?

A. This I don't recall; you may be right.

Q. Did not Mr. Doherty withdraw that plant from Association bargaining?

A. I don't recall Mr. Doherty participating in this discussion. Perhaps he did, but perhaps he was in the discussion, but the statements that took place relative to Sonoma, as I recall them, were that the plant was opened only for wages hence [Tr. 1150] was not included in the unit. Now, whether it had been—

Q. (Interrupting) Well, it was included in the unit that was attached to the Association agreement, wasn't it?

A. I have already said I don't recall whether it was or not. I presume that the exhibit would show.

Q. Well, I refer to the exhibit; I am referring to the exhibit of April 22, which is attached to respondents' answer, and is also in evidence as R-206.

Mr. Johnston also explained to you that the LSW in-

sisted on a multi-employer bargaining unit if they were to negotiate with you, didn't he?

A. I cannot recall for sure specific words. I will do my best to recall the meetings.

Q. I want the substance of his conversation, if you can't recall the precise words.

A. Is this what you are asking?

Q. Yes. I am asking you if he did not tell you that they wanted a multi-employer unit if they were to negotiate with you.

A. I can recall requests for the Association contract, master contract, uniform contract. My recollection doesn't go to the request for a multi-employer unit, as you put it. It could have been used, but I don't recall that, no, sir. I recall the other that I mentioned, and as I mentioned in my testimony earlier.

[Tr. 1151] Q. As a matter of fact, the Association couldn't have given him a multi-employer bargaining unit—

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A. It was my opinion that we were authoratively capable of bargaining as a multi-employer unit.

Q. (By Mr. Byrholdt) Did he not tell you that he sought unit protection, and I am using those words quote and unquote, unit protection?

A. The statement that I do recall, without denying that that was used, the one I do recall was his concern—and I remember questioning him about it as I recall—his concern as to pro- [Tr. 1152] tection against raids, for certification, having to do with certification of presumably LSW units.

Q. And it is for this reason that he sought this unit protection, was it not?

A. I don't know what his reason was. I said he did make clear at probably more than one time that they sought protection against raids.

Q. By what device?

A. Well, it seems to me that this master contract which I have testified to before might have been one of the devices he had in mind to do that.

.

Q. (By Mr. Byrholdt) He certainly gave you to understand that that was his reason for a master contract, didn't he?

A. I understood, yes; yes.

Q. To protect him against teamster raids?

A. To protect himself against—yes, yes; I think he sought, I think he indicated that one of the reasons was that and I think I understood that one of the reasons he wanted a master contract was to protect against teamsters raids.

Q. He proposed a master contract calling for the inclusion [Tr.1153] of such matters as the parties agreed upon in negotiation, did he not?

A. Yes.

Q. And the master contract would also permit an appendix showing the differences at the different locations of the various plants of the six companies?

A. Yes.

Q. Isn't that true?

A. As I understood his proposal it was that there would be an Association contract covering all those items that were uniform. I had no different view of that when we reached an Association agreement it would indeed be uniform and cover all the things we settled at that session. Mr. Johnston, as I understood him, was also interested in seeking further uniformity on contractual provisions that were not before the parties in this bargaining. This is the one that we resisted as a bargaining impracticability.

Q. Right. He offered to set up a committee to study this problem, did he not?

A. I think that proposal was made.

Q. That was the device he proposed?

A. Yes, he proposed a committee, as I recall, a study committee.

Q. He proposed that such uniform agreements as could be reached could be incorporated over a one-year span following [Tr.1154] the close of negotiations in 1963, did he not?

A. I recall one year may have been used, three years

was used, no, I believe he suggested a one-year period, among other things.

Q. He wasn't insisting you sit at the bargaining table until you got a master contract was he?

A. I think at one time that was the sense of the proposal; at one point in the bargaining.

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Q. (By Mr. Byrholdt) All right, Mr. Wyatt, you tell us what your understanding of Mr. Johnston's request for unit protection was.

A. Again, sir, I don't recall a discussion on unit protection. What I have said and do recall, is a great deal of discussion on master contract and uniform contract, and statements by Mr. Johnston and even requests by me which lead me to believe that at least the one of his reasons was to prevent raids. [Tr. 1155] Unit protection, as a phrase, as a definable thing, I don't recall.

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Q. (By Mr. Byrholdt) Mr. Wyatt, he told you he wanted a master contract covering all those locals, didn't he?

A. I recall the two discussions being separated. He did want [Tr. 1156] all those locals, yes, and he did want a master contract, yes. As to whether he ever asked for a master contract which included those locals, I presume you could surmise from this.

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Q. (By Mr. Byrholdt) Mr. Wyatt, he made, as a condition for recognition, agreement to bargain to master contract for all of these locals, is that not true?

A. Well, I can only answer the same way, sir, which is, he certainly requested or indicated that it was the LSW's desire to bargain for all of those locals. He also indicated that one of the things they sought was a master and/or uniform contract.

Q. And he made these statements at the outset when he told you he would not recognize you, did he not?

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[Tr. 1157] A. I think that it no doubt occurred at the same meeting: May 9.

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Q. (By Mr. Byrholdt) Well, Mr. Wyatt, Mr. Johnston told you at that meeting that he had no authority to bargain on any other basis than for a master contract and for all locals, did he not?

A. I don't recall that, sir.

Q. That was the substance of what he said?

A. That he had no authority to bargain on any other basis?

Q. That's right.

A. The statements that I recall, sir——

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Q. (By Mr. Byrholdt—interrupting) Answer the question yes or no.

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[Tr. 1158] A. My recollection is the same as I previously testified, that statements such as we don't intend to abandon some of our people or some of our locals, we intend to bargain for all of them and that we intend to seek a master agreement, sometimes referred to as a uniform agreement. I do not recall a statement or substance that there was lack of authority to proceed on any other basis and certainly when I received and showed them the telegram with respect to it and made my statements to them, I made it clear that if we could not proceed on any basis other than the inclusion of these, then, in fact, we could not proceed.

Q. (By Mr. Byrholdt) When you refer to a telegram, you are referring to the telegram of Mr. Ed McMahon of May 10, 1963?

[Tr. 1159] A. Yes, sir.

Q. Mr. Johnston told you that he had no authority to

bargain on any other basis than all issues in all areas, did he not?

A. I don't recall such a statement.

Q. He made a statement in substance to that effect, did he not?

A. To what effect?

Q. That you must bargain with him on all issues in all areas.

A. I think he made a statement that that is what he wanted to bargain on, yes.

Q. That was the basis on which he would bargain with you?

A. I can't recall that substance coming through as to that being the only basis. The substance that came through to me is that was the objective, the desire, and the wish as to the conditional—may have even been will intend. I don't know what their intent was.

Q. Following the explanation of the Association by yourself, and the statement of condition by Mr. Johnston, it was the afternoon of that May 9 meeting that Mr. Johnston handed to you the letter of May 8 which has been previously introduced in evidence here. I will show you now Respondents' Exhibit No. 207.

A. I have already said I don't know when I received this letter of May 8, sir.

Q. It was handed to you on that date, wasn't it, May 9, 1963?

[Tr. 1160] A. I don't recall that it was. I recall that a letter was handed to us on that date and my recollection, and frankly, with some discussion and searching my mind as to what it was since my direct examination, that that letter was an earlier letter or a letter that was addressed to a group of employers, broadly, in the industry, as I recall it—it is in evidence, too—stating the position of the LSW rather generally in the negotiating.

Q. You are talking about the April 11 letter to the industry, I think it was.

A. I can't recall the date. There are two possible letters that could have been handed, a letter that was handed to us in the course of that meeting and another letter. I

don't recall whether it was this letter of May 8 or an earlier letter more generally couched.

Q. You didn't receive it prior to May 9, 1963, did you, Mr. Wyatt?

A. I don't know, sir. I don't recall when I received that letter; the one you have in your hand.

Q. This is the letter showing the union had authority to negotiate to a multi-employer agreement, is it not?

A. I—

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[Tr. 1161] Q. (By Mr. Byrholdt) Mr. Wyatt, the letter in evidence as Respondents' Exhibit No. 207, May 8, 1963, lists all plants of the Big Six that are represented LSW, does it not?

A. I don't know. You say it lists all plants that are represented by the LSW?

Q. Within the Western Council, yes.

A. Well, the letter says that it does.

Q. It does, doesn't it?

A. I don't know.

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A. It represents all the locals that Weyerhaeuser has in the Western Council.

Q. (By Mr. Byrholdt) At the same May 9 meeting, Mr. Wyatt, Mr. Johnston made a proposal on behalf of the union on other matters, did he not?

A. Yes.

Q. And following the proposal the meeting was recessed am I correct?

A. Yes. I don't know whether it was immediately after the pro- [Tr. 1162] posal or whether we talked about something else before the recess.

Q. You perhaps talked more about the master contract, did you?

A. We could very well have.

Q. Now, at the next meeting on May 10, 1963, the sub-

stance of the union's proposal was rejected by the employers, is that true?

A. It seems to me that is when we made another proposal which was certainly different from the one the union had proposed.

Q. You rejected the union's proposal?

A. You mean as such, we rejected your proposal?

Q. In substance; I am not asking you to go through it, item by item.

A. Well, I think I indicated that there were many elements of the proposal that we didn't like and were going to resist. We made various counter-proposals against it, quite different from it in its original form.

Q. Amongst those proposals that you didn't like, was the master contract approach, wasn't it?

A. We considered that impractical and indicated many times that we had no objection to arriving at the day that we had a uniform and master agreement between the Association and the unions, but approaching it at the first bargaining we considered impractical and undesirable.

[Tr. 1163] Q. You wanted to put this off for future years?

A. No, we didn't feel we were putting it off. We felt if we continued to reach uniform contracts each year that in some succeeding session of such agreements there would come a time that it was much more practical to complete it into one document, if that is that point.

Q. To approach the problem and make a master agreement?

A. Well, the definition of master agreement, uniform agreement, either have troubled me for a long time. I don't really know the significance of the words as such. To me the settlement between the Association and the unions was and is a contract and it is uniform and it is master. It does not cover every element of every bargaining agreement. It seemed to me that that bargaining difference was the only thing between use at any time as to how much we would attempt to make uniform, as such in any given year.

Q. And Mr. Johnston made it clear to you that to him

it meant a contract incorporating all of the companies' locals into one unit, didn't he?

A. Well, it seemed to me that our Association agreement developed all of the plants, member plants of member companies, into a members' unit, already, before we began to bargain; they were a unit.

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[Tr. 1165] Q. (By Mr. Byrholdt) Mr. Wyatt, following the rejection of the union's proposal Mr. Johnston again raised the question of the exclusion of certain St. Regis plants from the bargaining, isn't that true?

A. Are you speaking of May 10?

Q. May 10, 1963.

A. I don't recall—well, objected to it?

Q. Yes.

[Tr. 1166] A. After our discussion between Mr. Hartley and Mr. Johnston and I, involving that St. Regis telegram, and my statement that this was the only basis on which the Association could continue to bargain with respect to those excluded plants, I don't recall it coming up again for several meetings. It was referred to considerably later, and it may have—

Q. (Interrupting) He did?

A. He did; that's your statement.

Q. Did he not?

A. I don't know.

Q. Don't you recall him telling you he was not going to permit the Association to force the union to bargain on four or five different levels with St. Regis at the May 10, 1963, meeting?

A. Oh, I think he said something to that effect. My previous answer was after my discussion with him involving the telegram and my statement again that this was the only basis, I do not recall it coming up again, that is all I said.

Q. At that meeting?

A. Yes.

Q. And on May 10, 1963, he continued to insist upon a master contract, is that not true?

A. Yes.

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[Tr. 1167] Q. (By Mr. Byrholdt) Now Mr. Wyatt, the next meeting between the LSW and the Bix Six was on May 22, 1963, is that not true?

A. After May 10?

Q. Yes.

A. Yes, I believe that is the date.

Q. At that meeting, again Mr. Johnston pressed the Association for a master contract, did he not?

A. I think I would have to refresh my recollection as to May 22 versus other dates, sir, to know the exact date.

Q. I don't wish you to tell me exactly. I want you to tell me whether or not he pressed you for a master contract on that date.

A. It seems to me the discussions of master contract took place pretty generally throughout and if you are asking me did it or didn't it take place on May 22, without refreshing my recollection, I would have to say I can't recall.

Q. Isn't it a fact, everytime he raised the master contract or association contract question you always took the position that you would give him an association settlement as distinguished from those other terms?

A. I say association agreement or association settlement, uniform agreement or uniform settlement, yes, it had various terms.

Q. Yes, but you were using a term distinguishing from his [Tr. 1168] term were you not?

A. I did not use the term master contract, that's true. Because you drew a distinction between his terms and those terms you were using?

A. I drew the distinction—

Q. (Interrupting) Yes or no?

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A. (Continuing) Yes, I understood him to be seeking through his words something different than we felt was good bargaining to give.

Q. (By Mr. Byrholdt) Now, following the May 22 meeting you next met on June 3, 1963, did you not?

A. I believe so; I think that is the date, I am not absolutely sure.

Q. This meeting was conducted under the auspices of the United States Mediation, is that not correct?

A. Our notes on the meeting would show but I believe that was the first meeting they were in.

[Tr. 1169] Q. And did not the mediator ask the parties to state their positions at the outset of that meeting?

A. If that was the meeting they first attended or called, it is my recollection that that is the way they opened the meeting.

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Q. (By Mr. Byrholdt) Statement of position?

A. Statement of position of the LSW on all of the issues?

Q. Yes.

A. Yes, whenever that was done, if it was June 3, I recall Mr. Johnston making the statement.

Q. And did he not tell you that—strike that. Did he not explain that the Association claimed to have the right to lock out in that opening statement?

A. I don't recall that statement being made.

Q. Did not Mr. Johnston state in that opening statement before the conciliator that the union had to have a master contract?

A. The substance of what I recall would be that they certainly sought it. That is what they wanted, there was no question about it.

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[Tr. 1170] Q. (By Mr. Byrholdt) Is that not what Mr. Johnston said?

A. What?

Q. That the reason they had to have a master contract was because of the Association's position that it had the right to lock out in the event of a strike?

A. No, I don't recall that being tied together.

Q. You again stated at that meeting, did you not, that, "The Association was not willing to create a master contract."

A. I don't recall the word again, but the substance was that I did disagree with attempting to write a master contract as I understood it as a result of any single year's bargaining, the first year at least.

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[Tr. 1171] (The record was read by the reporter as follows:

"Q. (By Mr. Byrholdt) Is that not what Mr. Johnston said?

"A. What?

"Q. That the reason they had to have a master contract was because of the Association's position that it had the right to lock out in the event of a strike?

"A. No, I don't recall that being tied together.

"Q. You again stated at that meeting, did you not, that, "The Association was not willing to create a master contract."

"A. I don't recall the word again, but the substance was that I did disagree with attempting to write a master contract as I understood it as a result of any single year's bargaining, the first year at least.")

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[Tr. 1172] Q. (By Mr. Byrholdt) Mr. Wyatt, Mr. Johnston also stated at the meeting that he was there bargaining on behalf of the LSW or representing for all locals on all issues, did he not?

A. June 3?

Q. June 3, 1963.

A. No, I don't recall the old issue of all locals coming up or locals other than those that we had specified on May 9 didn't come up on June 3, if we are talking about Libby and Klickitat.

Q. Now, the next meeting before the—strike that. The next meeting between the parties, the LSW and the Big Six took place on July 1, 1963, did it not?

A. The full committees, you mean?

Q. Yes.

A. Yes, I believe that is the date.

Q. And did not Mr. Johnston speaking for the LSW tell you again that the LSW must have an Association or group contract?

A. Again, he made it clear on July 1, that that is what the LSW sought out of this negotiation.

Q. And you again informed him that the Association would not enter into such a contract?

A. I said we were unwilling to try to create it in any one year. That I thought it was a matter of evolution, not revo- [Tr. 1173] lution, that we could get there but I did not view with any favor the idea of trying to get to it in any one bargaining.

Q. Did not Mr. Johnston challenge the Association bargaining authority because of its inability to represent those excluded St. Regis bargaining units?

A. No,—on June 3?

Q. No, I am talking about July 1.

A. Oh, I would have to refresh my recollection on July 1, if I could do that.

Q. You don't know. Do you recall that he brought up the exclusion of certain of St. Regis operations on July 1, 1963?

A. I cannot recall which meetings those exclusions came up again. The exclusions were discussed clearly with respect to the meeting of May 9, and on two occasions, at least, I made it clear that we could discontinue Association bargaining at that point, May 9 and May 10, if there was no way to proceed without bringing Libby and Klickitat to this bargaining table that we could discontinue and they were free to discontinue; it was all over. It is my

recollection that that issue, the exclusion of Libby and Klickitat, was not made part of subsequent union proposals and was not raised as a bar to procedure, and so on, except for mention very late in the process, and I would have to refresh my recollection as to whether that was July 1, July 15, or when it came up. There were certain letters—well, I am just trying to clarify the chronology with re- [Tr. 1174] spect to the exclusions.

They were raised affirmatively and conclusively on May 9 and 10. I said there is no way to proceed if they have to be included. They did not come up as part of any union proposals or conditions or anything of this kind, except for a mention later in the bargaining, and without refreshing my recollection I can't tell you which date that was.

Q. At this same July 1, 1963, meeting, Mr. Wyatt, Mr. Johnston challenged the Association authority based on the four excluded items, namely, health and welfare, pensions, union security, and local issues, did he not?

A. He challenged the Association authority at that meeting, if it is the meeting, and he asked me if we had authority to reach an Association contract, and I replied that we did but that we were unwilling to arrive at it in one year.

Q. You also told him the Association had no authority to bargain on those four excluded items, didn't you?

A. I don't know the words, I told him the Association intended to bargain those items with the individual companies at the individual company level where they were opened.

Q. And specifically you told him the Association had no authority to bargain on them, is that not true?

A. No, I didn't say we didn't have authority to bargain the issues, I said that we did not want to bargain them at the Association level and we were not going—I may have said we [Tr. 1175] are not going to bargain them at Association level but we will bargain them at the individual company level where such issues were opened.

Q. Now, following the challenge to the Association au-

thority, Mr. Johnston again asked you to see the delegates from various companies to the Association, didn't he?

A. To see the delegation?

Q. Yes.

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A. No.

You mean asked me again for the Association agreement?

Q. (By Mr. Byrholdt) Yes.

A. The only time I recall being asked for the Association agreement was at the first meeting.

Q. He asked you for the Association authority, did he not, at the July 1, 1963, meeting?

A. No, I don't recall that.

Q. He also stated at that meeting that unless the companies would bargain to an Association contract they were only dealing with them as individual companies, did he not?

A. He said it was their position they were only dealing with five individual companies and I replied that the only way we could meet was the way we had always met, which was at an Association level, and as an Association of five companies.

[Tr. 1176] Q. And Mr. Johnston also stated at that meeting that the union must have an Association contract covering all St. Regis operations, did he not?

A. I have already said that the matter of the exclusions of Libby and Klickitat was mentioned again in argument at some point later in the negotiation period. I don't know when it was and I don't know which meeting it occurred at. I don't recall it being mentioned as a condition of proceeding. It was not mentioned as a condition of proceeding.

Q. It was not mentioned as a condition of proceeding when?

A. At any time.

Q. He continued to insist on the including of them, did he not?

A. Well, I just testified as to the chronology of when the mentions of the excluded plants took place.

Q. To the best of your recollection?

A. Yes; and my recollection is quite clear on that point.

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Q. (By Mr. Byrholdt) Mr. Wyatt, proceeding away from the LSW for a moment, you first met with the IWA on April 24, 1963, did you not?

A. Yes.

Q. And at the outset of that meeting, you explained to the union the Association's authority, is that correct?

[Tr. 1177] A. Yes; I explained the Association, its member companies, and that it had authority to bargain for all those companies, all six companies.

Q. You told Mr. Nelson that the companies represented had authority to complete and sign any agreement reached, is that not true?

A. Again I can't testify to the exact words that were used, but that would be the substance of what I said.

Q. And you also informed him, did you, that the Association could speak for all of the companies on those issues delegated to the Association?

What is your answer?

A. I don't believe I ever said on those issues delegated. We had authority to bargain and a position that, subject to the agreement of the union, we wanted to bargain certain issues apart from the Association table.

Q. Well, you couldn't speak for all the companies on the items delegated, could you?

A. Yes, I could.

Q. Well, did you tell him that?

A. Do you want me to state what I did say?

Q. I want you to answer the question.

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[Tr. 1179] A. Well, specifically as to whether I told him as a specific point that we had authority or I had authority

to speak on all—well, I did say we had authority to bargain on all things, everything before the parties with respect to the bargaining. That the Association intended to bargain the exclusive items, the excluded items, elsewhere or at the company level where they were opened, is what I said.

Q. (By Mr. Byrholdt) Following your statement to Mr. Nelson, he challenged that position, did he not?

A. On local issues?

Q. He challenged the Association's ability to speak for the United States Plywood Company on the hour of labor issue, isn't [Tr. 1181] that true?

A. No, no; he didn't challenge our ability to speak for U. S. Plywood. He raised the issues that local opening had been made at U. S. Plywood with respect to hours of labor and other local things in conflict with what we are saying at the Association table, and we had a very considerable discussion on that for a couple of days, winding up with my suggestion to him and his first agreement, and then disagreement, and then at least our position was if that is the issue, bring them in, we will bargain them here; the local issues, bring them all in and we will bargain them here with an over-all settlement.

At first that seemed to be the thing to do and then he decided that wasn't the thing to do and then we could go on to other things later.

Q. Now, let's go back and get specific. When he challenged your claim to represent U. S. Plywood on hours of labor, he told you he wasn't going to bargain that issue at two levels, didn't he?

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[Tr. 1181] A. To the first part of your statement with respect to which said he challenged our authority to bargain for U. S. Plywood, that is not my recollection. He did indicate that he did not want to bargain with U. S. Plywood on several levels or to rebargain what had been settled at this level, that that was in conflict and he didn't want to do it twice, and didn't want one bargain to mitigate the other one.

Q. (By Mr. Bryholdt) The net effect of the local opening on hours of labor was to compel him to bargain at two levels, was it not?

A. Well, of course, local issues had been traditional and bargained for years at a local level, even though over-all settlements may have been reached at a Western States Regional Negotiating Committee level. To me that was not a new thing at all.

Q. But the association purported to speak on the hours of labor, wasn't that one of the specific subjects they opened on?

A. Yes, it did.

Q. But, in fact, they couldn't speak on it for U. S. Plywood, could the?

A. Yes, they could.

Q. Not at those—

A. (Interrupting) And offered to do so.

Q. Could they at those locals where the company had opened [Tr. 1182] on the issues?

A. If the union had been willing to bring them in, we certainly could and so offered.

Q. You mean if the union had been willing to bargain it twice with U. S. Plywood?

A. No, just once. My suggestion, after considerable complaint by the IWA that the effect of the local openings by U. S. Plywood and the Association opening would require a second round of bargaining on the same subject matter, I said then let's bring them in here and just do it once. In so doing I would be speaking for the Association, including U. S. Plywood. That was the suggestion and it would not have resulted in bargaining it twice, no.

Q. Yes, but that offer was conditioned upon the local unions bringing all their local issues into these negotiations, too?

A. Yes, all local issues.

Q. But you knew that the IWA Regional Council didn't have authority to speak for the locals on local issues, didn't you?

A. No, I didn't know that, I didn't know what their authority was.

Q. You didn't know?

A. I didn't know whether they had authority to bring these in or not.

Q. Had you ascertained the Regional Council's authority to bargain with you as an Association?

[Tr. 1183] A. Only to the extent of preliminary discussions before we got to the bargaining and the statement of what the Association was and intended to do and the responses that were made in the course of bargaining.

Q. You knew, as a matter of fact, didn't you, that the IWA only had such powers to bargain as was specifically delegated by its locals to the Regional?

A. As I have already testified, the matter of local delegations varied from year to year and bargaining to bargaining as to the matter and form that they may or may not delegate.

Q. Did you ever inquire of the IWA whether they had the authority to bargain with you on a multi-employer basis?

A. No.

Q. It was never discussed with anyone from the IWA, was it?

A. Not by me, that I recall.

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[Tr. 1184] Q. (By Mr. Byrholdt) Now, Mr. Wyatt, the meeting of April 24, with the IWA, April 24, 1963, it closed with a question of bargaining authority yet unresolved as between the IWA and the Big Six, did it not?

[Tr. 1185] A. No, I would say it closed with an unresolved issue with respect to local openings, well, any local openings which appeared to conflict with the bargaining at the Association level was certainly an issue still before us, and in particular, certain local openings of U. S. Plywood were a problem.

Q. Now, these local openings that conflicted were on the same subject matter that the Association specifically claimed authority to bargain on, wasn't that true?

A. There were some which appeared to conflict, yes.

Q. On hours of labor, for one, is that right?

A. Yes.

Q. And on grievances, for another?

A. I don't recall what the others were. There were statements made that there were others conflicting, other conflicting local matters.

Q. And you next met on April 25, 1963, with the IWA?

A. Yes.

Q. And at that meeting this question of conflicting openings on hours of labor and grievances was again discussed, was it not?

A. Yes.

Q. And it was again unresolved at the end of that meeting?

A. At either that meeting or the next one on the 26th, and I cannot recall without refreshing myself which it was. No, at this meeting I stated as one of our positions that certainly [Tr. 1186] any bargaining on a conflicting issue which appeared to be opened both locally and at the Association level, the Association bargaining would control and commit the member companies involved. The only bargaining we would do would be the bargaining we did at the Association level and it would control any local opening on the St. Regis—the bargaining would control any local opening on the same subject matter. I went on to state and explain how this came about in the particular year or how I felt it came about, and it was, I thought, adequately explained, and pointed out that the Association would make every effort to avoid any conflicts in future years.

Q. Well, that was your position but that wasn't U. S. Plywood's position, was it?

A. U. S. Plywood was in complete agreement to bring all the local issues to the Association table.

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[Tr. 1192] Q. (By Mr. Byrholdt) Mr. Wyatt, going back, then, to this conflict of local openings versus Association openings on hours of Labor, with U. S. Plywood, the position of the parties as of April 24, 25, and 26, 1963, was

the effect of that unless U. S. Plywood agreed to waive those local openings the union could be compelled to bargain on two levels on them, is that no true?

A. No.

Q. That was the understanding of the union, was it not?

.

A. I told them that we would bring those issues to the Association table and settle them.

Q. (By Mr. Byrholdt) As local issues?

A. Unless they were brought in, I don't know whether they would have been settled across the board for every local in every plant or on some other basis. We indicated we had the authority to bring them in and settle them.

Q. U. S. Plywood didn't indicate that, did they?

A. I was speaking for U. S. Plywood, as well as any other members of the Association, when I made the proposal.

Q. Well, as a matter of fact, Mr. Wyatt, is it not true that it wasn't until June 27, 1963, that U. S. Plywood ever agreed to the position you are now contending was at Association——

A. (Interrupting) No, sir, that is not a fact.

[Tr. 1193] Q. Is it not true that on June 27, 1963, Mr. Leeper, before the conciliator, told him and all parties present that U. S. Plywood would now be bound by an Association agreement that conflicted with a local opening?

A. It is true that he said it then; it is also true that it was clear to me by U. S. Plywood that when I suggested it in the meeting of April 24, 25, and 26, they were aware of it and in agreement with this, and I had full authority to speak for them at that time.

Q. When you say speak for the, you don't mean as the Association, do you?

A. I do mean as an Association, definitely.

Q. The Association was going to handle the local negotiations for the companies, as well as the Association openings?

A. Because of the conflict that had been raised and

pointed out, understand, our position with respect to local openings was the same as on its exclude subject matter, but a question was raised by the union as to certain subject matter as between local and union opening, and as a result of that discussion we said, "Very well, we will bring them in, bring them all in here and we will settle them."

Q. You never agreed to format upon which they were brought in, did you?

A. No, the unions, at one time, I felt, we were in agreement. I think the minutes will show that I felt we were in agreement, [Tr. 1194] but subsequently the unions' spokesman indicated that wasn't a desirable procedure and suggested that we set them aside and bargain the other issues and if we needed to we would come back to them.

Q. This again refers to the local versus the Association openings, in other words, which are in conflict?

A. Yes.

Q. They were set aside?

A. I think what was said was, "Let's stop talking about them and get on with the issues and we will see if we need to talk about them." Of course we subsequently closed them all when we wrote the Association settlement.

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[Tr. 1195] Q. (By Mr. Byrholdt) Mr. Wyatt, a couple general questions about the bargaining process.

When an offer was made by the Association to the unions, either the LSW or the IWA, the offer was in the form of a package, was it not?

A. You mean containing more than one item?

Q. Yes.

A. Yes.

Q. And is it not true that in the bargaining process the acceptance or rejection of this package had to be as to a whole of the package?

A. Well, of course, any part of it would still be bargainable. I mean we did discuss it piece by piece and bargain on it piece by piece after any offer was made.

As of the moment that we made an offer at the bargaining table, assuming it was acceptable, we could present it as a whole with all of its parts.

Q. This is the usual bargaining process, is it not?

A. I think so, yes.

Q. In other words, the union couldn't pick out of the package something particular that it wanted and reject the balance of [Tr. 1196] it without your acquiescence?

A. Well, the discussions, as they occur in this instance and usually occur, I think, is that once in a while as part of a total bargaining package, as you put it, there may be one element or two elements that the parties can find themselves in agreement on and these may then be made that—comments may be made that it looks like we are all right in this issue and we can sort of set that aside and work on the ones that still seem to be a problem. It isn't a matter, in my experience at least, of just saying because you have presented a package we just reject the whole thing and we don't want to discuss it until you change the whole package.

It is ordinarily a matter of going back to its elements and find how far we are apart, piece by piece, and perhaps additional counter-proposals or further proposals can be made.

Q. Now, at the time you were negotiating with the IWA in 1963, commencing in April, you never furnished the IWA with any copy of the agreement that is in evidence here as the Association agreement, did you?

A. No.

Q. Prior to the opening of negotiations in 1963, it was common knowledge in the industry, was it not, that the unions were going to seek a substantial wage increase in 1963?

A. You mean prior to the time they announced what their desires were?

[Tr. 1197] Q. Well, it was known for a considerable period of time, was it not, following the 1961 negotiations that they were going to press for a substantial wage package in the new bargaining sessions?

A. I don't know whether there was common knowledge

as to how they were going to go or try to go.

Q. Wasn't there a clear expression of dissatisfaction with the 1961 settlement?

A. '61 settlement?

Q. '61-'62 settlement, yes.

A. Well, these were separate settlements, '61 and '62.

Q. Yes.

A. I think the Lumber and Sawmill Workers who kept their—in effect, kept their bargaining situation open after '62 indicated that they were so doing because they didn't believe that a closure without increase was in order.

Q. Well, as early as February of 1963 it was common knowledge, was it not, that both unions were going to seek a very substantial wage increase?

A. There may have been opinions expressed to this extent, I don't know what you mean by common knowledge.

Q. Let me ask you about your knowledge, then.

A. I think it would have been my opinion, it wouldn't have been knowledge. I think it would have been my opinion that the likelihood would be that the Internationals would attempt [Tr. 1198] to gain a wage increase in '63 that would include some or all of what they thought they should have received in '62.

Q. Right. As a matter of fact, the unions, in the Fall of 1962, had held conventions and meetings and this was evident to all the industry, was it not?

A. I have seen statements that they intended to do what I previously said, which was not to lose that increase. They had passed it up or didn't press for, at least, in '62.

Q. Now, Mr. Wyatt, had there at any time, to your knowledge, ever been a lockout in the lumber industry in the Northwest prior to 1963?

A. Not to my knowledge.

Q. At the meetings that were held between the LSW and the IWA and the Big Six, each company that had contracts with those unions had a representative, is that not true?

A. Yes.

Q. At each and every meeting?

A. Yes.

Q. The Association—strike that.

Is it not true that T.O.C. doesn't execute a master contract on behalf of its members?

A. Well, sir, we are again in the matter of a——

Q. (Interrupting) Do you know?

A. Well, if I can't be any more specific than the term master contract, then my answer would be no.

[Tr. 1199] Q. The T.O.C. makes a recommendation to its members based on a settlement that T.O.C. makes?

A. They arrive at when they are successful. My understanding is that they arrive at a recommended settlement formula.

Q. Which they recommend to their members?

A. Yes, which their bargaining committee recommends.

Q. And T.O.C. is a multi-employer bargaining association for all purposes not reserved by the individual members of that association, is it not?

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Q. (By Mr. Byrholdt) If you know.

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A. I don't know.

Q. (By Mr. Byrholdt) Now, T.O.C., in 1963, opened on the same issues, generally, that the Association opened on, did it not?

A. I recall that they opened similarly to the Association on hours of labor. I believe they opened similarly on refusal to work overtime. Beyond that I don't recall whether they had——

Q. (Interrupting) When you say similarly on refusal to work overtime, that includes work grievances and overtime, doesn't it?

A. No, sir.

Q. T.O.C. also sought to bind its members to stay with the Association until a settlement was concluded in 1963, didn't it?

[Tr. 1200] A. I don't know.

Q. You don't know?

A. No.

Q. You have never been so informed?

A. I don't know what you mean by bind.

Q. Didn't they seek to get their members to sign a power-of-attorney in 1963?

A. I don't know.

Q. Do you know whether or not they sought to bind them so they could not settle separately prior to the T.O.C. settlement in 1963?

A. No, sir, I don't.

Q. You have no knowledge of that?

A. No, sir, I don't.

Q. Is it not a fact that the Big Six worked very closely with T.O.C. in 1963?

A. I would say it was not a fact, to my knowledge.

Q. Didn't the Big Six work very closely with the independents in the industry in 1963 in bargaining, referring to Simpson and Georgia-Pacific, and these groups?

A. I can't answer the question if I do not have your meaning of working closely.

Q. All right, didn't you take positions in bargaining as the Big Six, based on position that Simpson, Georgia-Pacific, these other companies, were also taking in bargaining?
[Tr. 1201] A. No, sir.

Q. Didn't you consult with one another with respect to bargaining conditions?

A. I think there were times toward the end of the difficulty that I talked to representatives of other companies, yes.

Q. And did you not take parallel positions with them in these negotiations?

A. No, sir.

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Q. (By Mr. Byrholdt) Mr. Wyatt, referring again to R-36, that being the first page of your notes of June 27, 1963, there is a parenthetical statement reading "Simpson disagrees on wording and amount". That refers to the travel pay proposal of the Association, doesn't it?

A. It apparently does.

[Tr. 1202] Q. You were consulting with them in the course

of bargaining then, with regard to the positions you were taking, were you not?

A. No, sir.

Q. Well, explain the reference then.

A. I can't explain it, I don't know what I meant, but at various times at the time Simpson revealed agreement or announced positions and agreements that they may have reached were distributed in T.O.C. bulletins, and all sorts of ways.

Q. Simpson isn't in T.O.C., are they?

A. No, but I am sure you will find T.O.C. bulletins that talk about settlements and agreements made by members and nonmembers of T.O.C.

Q. No, Mr. Wyatt, this is specific. It seems Simpson disagreed on wording and amount.

A. Yes.

Q. Are you telling me that you weren't consulting with them with regard to the position you were taking on travel pay in these negotiations?

A. Yes, I am.

Q. Well, explain the reference then.

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[Tr. 1203] A. I would say that that had reference to a note to remind me to point out that we did not agree with Simpson, some position taken by them, or were not prepared to agree. Something they settled while ahead of everybody else.

Q. (By Mr. Byrholdt) They hadn't settled on June 27, had they?

A. I don't know, I have forgotten. I don't know.

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Q. Do you recognize that bulletin, Mr. Wyatt?

A. No, not yet. I am not sure I have seen it before. I am not sure, I may have seen this.

Q. Is it still your position that the Big Six was not working closely with the other majors in the lumber in-

dustry with regard to positions they were taking in collective bargaining?

A. Not to my knowledge, I said; I don't know.

Q. Are you telling me you have never seen a copy of this bulletin before?

A. No, I am not.

Q. You received a copy of that?

[Tr. 1204] A. No, I don't believe I did receive a copy of it. I don't know whether I did or not. I think I have seen it, or something like it, but I am not sure.

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Q. (By Mr. Byrholdt) You were furnished with this bulletin on the day it was issued, were you not, sir?

A. I don't know.

Q. Well, you were the chief negotiator for the Association, weren't you?

A. Yes, I was.

Q. Are you telling me that you were not informed of this?

A. I am telling you that I don't know whether I saw it or, if I did, when I saw it. I don't know.

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[Tr. 1205] Q. (By Mr. Byrholdt) This memorandum was issued by Mr. Weyerhaeuser on the date in question, namely, July 19, 1963?

A. His name and that date appear on it, that is all I know.

Q. You don't recall receiving it on that date?

A. I don't know whether I received it or not.

Q. Do you have any recollection of receiving it?

A. I may have seen it, I am not certain, I saw a lot of things. I don't—this one does not ring any bells as having said to me, yes, I remember seeing this particular piece of paper.

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Q. (By Mr. Byrholdt) Are you telling me, sir, that you received more than one memorandum from Mr. Weyerhaeuser relative to negotiations?

A. I don't recall that I received a memorandum from Mr. Weyerhaeuser relevant to the negotiations. I would submit this, that I am virtually certain that that memorandum was not written to me, if it was written by Mr. Weyerhaeuser.

Q. Not to you among several other employees?

A. Not to me at all, I am sure.

Q. You would not have received a copy of this?

[Tr. 1206] A. Well, I don't know whether I received a copy or not; I have already said that. If Mr. Weyerhaeuser wrote it, that would appear to me by its very nature to be a report to someone else quite unfamiliar with the negotiations within Weyerhaeuser Company, and certainly not to me.

Q. Well, this was a general report to his executives, wasn't it?

A. I don't know, I don't even know if he wrote it, to my knowledge.

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Q. (By Mr. Byrholdt) With reference again to the 1963 negotiations, is it not a fact that three of the six members of the Big Six were represented on the executive committee [Tr. 1207] of T.O.C.?

A. Some of them were, let's see. I am not sure it was three. There were at least two that were, of my knowledge, whether there was a third, I am not sure right now.

Q. Isn't Mr. Boddy an officer of T.O.C.?

A. I don't think so.

Q. Mr. Hallin of Crown Zellerbach is?

A. Yes.

Q. Mr. Kelsey of International Paper is and Mr. Forrest of Rayonier is, is he not?

A. That could be true, I don't know it of my knowledge. The first two I know of my own knowledge were on the executive committee of T.O.C. I don't know that they still

are, but they were. The third one, Mr. Forrest, I am not certain of at this point.

Q. Now, going back to April 12, 1963, I think you earlier testified that a meeting was held among representatives of the six companies who ultimately formed the group known as the Big Six, is that correct?

A. Yes.

Q. At that meeting Mr. Doherty for U. S. Plywood declined to join with you, didn't he?

A. He stated in behalf of others or quoted that they were going to be unwilling to go along on the basis as it then stood, or he felt they would.

[Tr. 1208] Q. Well, he was there representing them at that meeting, was he not?

A. Yes.

Q. He was their sole representative?

A. In person.

Q. Yes.

A. Well, I am not even sure of that, I don't recall whether there were others present from U. S. Plywood. There may have been, there usually were with Mr. Doherty.

Q. Well, on April 12 Mr. Doherty was their representative, was he not?

A. Yes, at the meeting he was.

Q. Following his refusal to join this necessitated your meeting with U. S. Plywood to get them to come in, did it not?

A. No.

Q. You had no meeting with them relative to them coming into the Association?

A. No.

Q. How did you obtain their agreement or assent to bargain with you as a group?

A. By telephone.

Q. And Mr. Doherty reported back to you?

A. No.

Q. Mr. Doherty spoke with his superiors by phone?

A. No.

[Tr. 1209] Q. Did you speak with his superiors by phone?

A. No.

Q. Well, U. S. Plywood did not join with you on that date, did they?

A. Yes, they did.

Q. What conditions did they attach to joining with you?

A. That the other five also join.

Q. Is that the only condition they attached?

A. Yes.

Q. They didn't attach any restrictions upon the negotiations that would be conducted on their behalf?

A. No, sir.

Q. You don't have any recollection of that?

A. No, sir.

Q. It is a fact, though, that the U. S. Plywood Corporation did restrict its authorization to the Association, is it not?

A. No.

Q. They were not bound by any action of the Association, were they?

A. The same as any other member, yes, they were.

Q. Now, you were only bound to one thing, weren't you, to lock out?

A. No, sir.

Q. When did the lockout agreement spring into life, when did it become effective?

[Tr. 1210] A. Well, I can't give a legal opinion.

• • • • •
Q. (By Mr. Byrholdt) Mr. Wyatt, were you bound to lock out from the day you signed the agreement?

A. Under certain terms and conditions, yes; if, in fact, a strike had occurred against one or more members of the Association over the issues that the Association was bargaining with the unions.

Q. Well, is it your testimony, then, that upon execution of Respondents' Exhibit 206, that being the agreement of April 22, that you were all bound from that point on to lock out in the event that economic action was taken by [Tr. 1211] any union against any one of the members?

A. I think it—
• • • • •

Q. (By Mr. Byrholdt) Well, Mr. Wyatt, at the time the Big Six agreed to lock out on June 5, 1963, the agreement was to lock out at all operations represented by either the LSW or IWA, was it not?

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A. First, let me say it isn't my testimony that we agreed to lock out on June 5.

• • • • •

Q. (By Mr. Byrholdt) What is your testimony?

A. We agreed to lock out in the event a member company was struck over issues being bargained between the Association and the unions. We reached that agreement when we signed the agreement in April.

• • • • •

[Tr. 1213] Q. (By Mr. Byrholdt) I will ask you that question.

• • • • •

A. What is the question? Have I ever used it at any time since I have been out here working with Weyerhaeuser?

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[Tr. 1214] Q. (By Mr. Byrholdt) And, Mr. Wyatt, what is the meaning of the two hats that the Association members wear?

A. I didn't testify that I used it like that.

• • • • •

Q. (By Mr. Byrholdt) Have you ever used that expression with regard to the Association?

A. I don't know, I don't recall whether I have or not.

Q. Did you regard the members as being there in a dual capacity?

A. No, I don't, I don't know what it could mean. No, I don't understand, I don't understand what you are driving at or what I might have meant. No, I don't know what you mean by anybody in a dual capacity, if there was anyone in a dual capacity. The only one I can think of would be myself at times.

Q. Did not each member speak on each issue that was presented [Tr. 1215] by the Association prior to your presenting it to the unions with whom you were negotiating?

A. I couldn't say that each member spoke on it. Various members did when we were among ourselves deciding on what we should do next.

Q. Was not each company there representing itself?

A. Each company where?

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[Tr. 1217] Q. (By Mr. Byrholdt) Mr. Wyatt, you testified in the Washington-Oregon Unemployment proceeding, did you not?

A. Yes.

Q. And your testimony was given under oath in Portland, Oregon on December 3 through December 16, 1963, was it not?

A. I don't recall the dates, sir.

Q. You testified in that proceeding under oath, did you not?

A. Yes, I did.

Q. Is it not a fact that the following question was asked you in that proceeding?

"Question: Each man present on that committee, did he have authority to bargain principally for his own company, or some other or different authority?"

And is this not your answer:

"Answer: He had authority to act as a member of the negotiating committee of the association and he also had authority to act on behalf of the company by which he was employed."

Is that your answer?

A. Well, you are telling me it is. I haven't seen a place in the transcript that I am the one testifying at this point. It seems likely.

Q. Mr. Wyatt, the index shows that you commenced to—
Mr. Wyatt, looking at Page 81, can you tell me now if this
is your [Tr. 1218] testimony previously referred to on
Page 82?

A. It appears to be, yes.

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Q. (By Mr. Byrholdt) I think I previously read the re-
sponse into the record. Did Mr. Toulouse ask you a further
question as follows:

“Question: Oh, he had two hats?”, referring to the rep-
resentatives on the Association committee?

A. Yes, Mr. Toulouse apparently asked me that question.

Q. And your answer was:

“Answer: Yes, I think so.”, was it not?

A. Yes, I think so.

Q. Would you, sir, explain the two hats that these gentle-
men were wearing during these negotiations?

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A. In reading that small piece of the transcript, it ap-
pears that what Mr. Toulouse had reference to when he
asked me the question and used the words “Oh, he had
two hats”, and I said, “Yes, I think so”, was the fact
that in the meetings of the executive committee or nego-
tiating committee of the Association it was clear that each
of us were representing the Association as such in dis-
cussing among ourself a position or determining [Tr. 1219]
a course that the Association should or should not take
in bargaining. They were no doubt thinking of their par-
ticular company and its interests in that course of action.
That is what I believe I must have meant by two hats at
that time. I didn’t use the term.

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Q. (By Mr. Byrholdt) Mr. Wyatt, isn’t it a fact that
none of the participants in these so-called Association
negotiations were bound to anything beyond the lockout
agreement?

A. No, it is not a fact, to my knowledge.

Q. It is not to your knowledge a fact?

A. It is not a fact.

Q. Now, Mr. Wyatt, going back to June 3, 1963, following your meeting with the LSW, I think you have testified you retired to your hotel room in the Congress Hotel in Portland, Oregon, is that true?

A. No.

[Tr. 1220] Q. Did you not have a meeting in your hotel room that afternoon with Mr. Johnston and Mr. Hartley?

A. It was in one of their rooms, I wasn't in the Congress Hotel.

Q. It was in one of their hotel rooms that you met?

A. Yes.

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A. I didn't meet in my room, I admit this is a detail, but he asked me if I retired to my room. I will say that I did meet with them on June 3 in a room that must have been either Mr. Johnston's or Mr. Hartley's. I wasn't staying in the Congress Hotel.

Q. (By Mr. Byrholdt) And they requested that you come up and meet with them on that date, had they not?

A. Yes, I think that is the case.

Q. And during the course of this meeting, the question of whether or not the six companies could lock out was discussed, was it not?

A. Whether they could?

Q. Yes.

A. No, I don't believe so.

Q. Didn't Mr. Johnston tell you that he understood that the [Tr. 1221] policy of Crown Zellerbach and International Paper precluded them engaging in a lockout?

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A. I am thinking. I don't believe that that was said to me.

Q. (By Mr. Byrholdt) You have no recollection of it being said?

A. I heard that considerably subsequent to the lockout itself, that there had been knowledge by the union that there was a policy in some one of our members' company,

I hadn't heard it with respect to U. S. Plywood before. I heard it with respect to Zellerbach.

Q. I said Crown Zellerbach and International Paper.

A. Oh, excuse me.

I never heard it with respect to International Paper until this moment, but I don't recall Mr. Johnston or anybody telling me in the meeting on June 3.

Q. I am not talking about the meeting, I am talking about the hotel room.

A. I am speaking of the hotel meeting of June 3. I don't recall being told that there was a policy in those companies against lockout. That was the meeting in which I pointed out that if there was a selective strike against the Association the rest of the Association would lock out and were bound to do so.

Q. Didn't Mr. Johnston tell you that he understood that any- [Tr. 1222] one, any member of the Association could abrogate the lockout agreement?

A. Yes, he did say that, or did ask me, he either said it or asked me if it was a fact and I said it was not.

Q. Didn't you tell him there was a great deal of confusion among employers as to whether or not they would lock out?

A. No, I did not.

Q. Didn't you tell him that your own superiors were not sure what they would do?

A. No, I did not.

Q. You did not?

A. No, I said to him that there was all kinds of confusion, and there was on a great many things. We certainly discussed a great deal of confusion between the parties and to their positions and so on, but I did not indicate any confusion in my mind about the fact that we had an agreement and were bound to lock out if a selective strike occurred.

Q. Mr. Wyatt, we are not talking about your mind. I am talking about your superiors in the other companies, their mind, there was confusion among them as to whether or not they would lock out, wasn't there?

A. Not to my knowledge, sir. No one ever expressed to me any confusion whatsoever about whether a lockout would occur in fact and we would all go down if a selective strike took place.

[Tr. 1223] Q. Didn't, following this meeting between you, Mr. Johnston, and Mr. Hartley, they go meet with Mr. Hallin of Crown Zellerbach to make the same inquiries of him?

A. That is hearsay with me, of course.

Q. Well, Mr. Hallin told you that, didn't he?

A. Yes, he told me he had had a meeting or they called on him late that evening.

Q. And they made the same inquiries of him, did they not?

A. I don't recall the exact inquiries that were made of him.

Q. Well, now, they asked him also whether or not the companies would lock out, didn't they?

A. I understand that they did, yes. I understand this from Mr. Hallin.

Q. You didn't tell Mr. Hartley or Mr. Johnston on the night of June 3 that you were going to lock out?

A. I told them that if there were a strike against the Association, less than the total Association, a selective strike, that the rest of the plants would go down and I was asked by either Mr. Johnston or Mr. Hartley "Do you think you would be legal", this I recall.

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Q. (By Mr. Byrholdt) Well, now, you know that Mr. Hallin told them that Crown Zellerbach's position was they would lock [Tr. 1224] out if the rest did, did he not?

A. No, I don't know that is what Mr. Hallin said.

Q. Didn't he tell you that?

A. No, that isn't what he told me.

Q. There was, in fact, great uncertainty about whether or not there would be a lockout that evening, wasn't there?

A. There was no uncertainty whatsoever in my mind and no uncertainty expressed to me by any members of the Big Six as to whether we would lock out if a strike, in fact, occurred against any one of our members.

Q. You were quite certain that the lockout would go into effect?

A. Yes, I was.

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[Tr. 1225] Q. (By Mr. Byrholdt) Mr. Wyatt, that evening when you met with Mr. Hartley and Mr. Johnston in the Congress Hotel, is it not a fact that you told both of them that anyone members of the Association could abrogate the lockout agreement?

A. No, sir.

Q. You have no recollection of that?

A. I told them that anyone members could not.

Q. That is your best recollection?

A. Yes, sir.

Q. Is it not a fact that you also told them on that evening that anyone members of the Association could obviate any agreement the Association might make on any collective bargaining subject?

A. No, sir; no, sir, I pointed out that one member couldn't do that.

Q. Have you ever given such testimony in any other proceeding?

A. I have not.

Q. Mr. Wyatt, you testified under oath in a California unemployment compensation hearing, did you not, on August 23, 1963?

A. I don't remember the date, but I testified under oath in the California case, yes.

Q. And during that proceeding, Mr. Daniel Johnston, who was the collective bargaining representative for the LSW in the negotiations, interrogated you relative to that June 3, 1963, [Tr. 1226] meeting, didn't he?

A. Yes.

Q. Do you recall his cross-examination of you?

A. Not in detail, no.

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Q. (By Mr. Byrholdt) Now, Mr. Wyatt, you testified under oath in that proceeding, did you not?

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A. Yes; I don't know the dates.

Q. (By Mr. Byrholdt) And you were represented by counsel on that date, were you not?

A. Yes.

Q. Did not Mr. Johnston interrogate you with regard to this June 3, 1963, meeting?

A. I recall that he did.

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[Tr. 1227] Q. (By Mr. Byrholdt) Did not Mr. Johnston ask you the following question, "Q. Do you recall me stating in that connection that our past experience with the policy and the personnel practice of a couple of companies such as Crown Zellerbach and International Paper that a lockout was contrary in our opinion to their policy?" and your answer, "I am not sure, Dan, but I think you did mention to me that you understood it or you asked me if I knew whether Crown Zellerbach had a policy against locking out. It seems to me you either asserted it or asked me if it was true, or mentioned it." The next question, "Then did I not ask you, "And are you certain that each company is bound to this agreement?" and did you not respond to me that any one company may abrogate the agreement?" and your response was as follows, "I did not, Dan, not with respect to the lockout, not with respect to the lockout." that is a further portion of your answer. Next question was with respect to what and your answer was, "Almost anything else in the association, any action, any action to make an offer, not to make an offer, to be down a point, to do almost anything an association does in the normal conduct of collective bargaining, but to me there wasn't any question. Nor was there any right on the part of any one individual company to by their disagreement prevent a lockout except by running the risk on their part of breaching that agreement which might make them, and I believe I am trying to be a lawyer again—to me the only right that there [Tr. 1228] wasn't any right of an individual company to prevent this action on the part of the association. We were bound to do it. I guess you would have to assume that any individual could have just done it, certainly, I mean, where here's a company presumably, I suppose, could have said, "We understand we are bound. We understand the whole thing, but we don't do it."

That was your answer, wasn't it?

A. It appears to be, I can't imagine that I spoke that way.

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[Tr. 1230] Q. (By Mr. Byrholdt) Mr. Wyatt, you have had an opportunity have you not, to examine pages 135 through 139 of the California Unemployment transcript of August 26 and 27, 1963?

A. Yes.

Q. That is substantially accurate of your testimony, is it not?

A. Well, I have no basis on which to doubt it. It says what it says.

Q. You have read those pages, have you not?

A. Yes.

• • • • •

[Tr. 1233] Q. (By Mr. Byrholdt) Referring you to the LSW negotiations in 1963, you frequently alluded to an evolutionary not revolutionary process of bringing about a master agreement, is that right?

A. Yes, sir.

Q. Did you do anything in 1963 to fix a starting point on such an evolutionary agreement?

A. Yes.

Q. You are referring now to the August 13 settlement?

A. That's part of it. The other part is the committee we set up to continue to talk about common problems in between bargaining.

Q. Now, after the meeting where you referred to this evolutionary arrangement, was there any conversation with regard to making a master agreement; did you have any discussions with the LSW on this?

• • • • •

A. When?

Q. (By Mr. Byrholdt) Any time during the negotiations or following the negotiations—excuse me, following the negotiations.

A. Following the negotiations you mean after the settlement?

Q. Yes.

A. We have had one meeting of the automation committee since [Tr. 1234] then. I don't recall that it was discussed then, however, no. I don't recall any sessions since the settlement that talked about a master agreement.

Q. Well, isn't it a fact that the Association was set up to bargain only in 1963 for the various members of the group?

A. No, sir.

Q. Well, now, Mr. Wyatt, I will refer you to your letter of April 17 to Mr. Brandis of the Georgia Pacific Company, that is Respondents' Exhibit 19. Did you have an Association agreement on April 17, 1963?

A. We had agreed to have one and the agreement itself was out being signed by the various members. It was in the process of being signed.

Q. That letter doesn't indicate that you have any agreement, does it?

A. Well, at this point, we had a verbal agreement only reached in the meeting of April 12 and the agreement itself was out being signed, it hadn't been signed yet.

Q. It was tentative at this point though?

A. No, we had reached an agreement, I knew, verbally that all the companies had committed themselves. I had not seen a signed agreement as yet.

Q. You certainly don't indicate that in your letter to Mr. Brandis, do you?

A. I didn't state it that way, I don't know what you are [Tr. 1235] referring to. I say, "It is moving forward. I think the group of companies have decided to bargain together on a joint basis in 1963. At the time I talked to you which was earlier, the desirability of this arrangement was still under consideration."

Q. You say I think the group of companies have decided to bargain together, they had not had they on April 17 decided that?

A. We had verbally agreed on April 12 that we would sign. We hadn't signed.

Q. You didn't have any agreement until they were signed, did you?

A. I am not a lawyer in this situation but certainly I took the meeting of April 12 to be an agreement which required everybody's signature. But, they certainly agreed on April 12 that they would sign the agreement. It was typed up again and distributed to them.

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Q. (By Mr. Byrholdt) The proposal to bargain in 1963, was that for more than one year?

[Tr. 1236] A. For as long as it continued as far as I understood.

Q. That was the intention of the parties?

A. Yes.

Q. Was that their intention when they signed the agreement?

A. Yes.

Q. You so understood?

A. Yes.

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Q. (By Mr. Byrholdt) Mr. Wyatt, I have shown you one copy of the company's news bulletin relative to negotiations on May 6, 1963; are you familiar with that memorandum?

A. This appears to be one written by Al Kronenberg the manager at Springfield.

Q. That is correct.

A. This doesn't show me who it is addressed to.

Q. It is the same bulletin that the company puts out at all of their plants on that date, is it not?

A. I don't know, I would have to see the others. I don't know whether it is or not.

Q. You are familiar with the company's news letters issued [Tr. 1237] about this time summarizing negotiations to that point, aren't you?

A. Was there one?

Q. Wasn't there?

A. I don't know?

Q. You don't know?

A. I mean I don't know; if I see one it may refresh my recollection that one went out.

Q. Well, you see one, does that refresh your recollection?

A. This appears to be only a letter written by Al Kronenberg on May 6, to somebody talking about labor negotiations. It doesn't infer to me that it is a company news letter.

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Q. (By Mr. Byrholdt) Mr. Wyatt, let me refer you to the third paragraph of that bulletin. Do you recall that company news letter of March 29 explaining the company's position on the company and union openers?

[Tr. 1238] A. Is this the same one?

Q. I refer you to paragraph three of the same one, that's right.

A. This appears to say, "That the Company openings were sent to you on March 29." It appears to say "That the Company openings which were—oh, no, what was your question? I see, the third paragraph.

Q. The company also issued a bulletin on March 29 relative to these negotiations, didn't they?

A. I don't know. They could have; we issued a number at various times, that is, the managers issued them over their own signatures.

Q. That's right, based upon the standard outline of the materials to be covered that came from the Tacoma office, is that not true?

A. Some of them were based on general information that came from Tacoma, yes. Some of them were—

Q. (Interrupting) This is true of the May 6, 1963 bulletin, isn't it?

A. I don't know whether it is or not.

Q. Well, you are under subpoena to produce your records, did you search for this record?

A. I understand that—I produced all my records, all my files pursuant to this subject, yes.

Q. You received a copy of this bulletin, did you not?

[Tr. 1239] A. I don't know.

Q. Well, now Mr. Wyatt, is it not a fact that uniformly you received back copies of all of the bulletins that the

various branch managers put out relative to the negotiations and positions taken by them?

A. No, I am sure there are many I didn't receive.

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[Tr. 1241] Q. (By Mr. Byrholdt) Mr. Wyatt, I will show you General Counsel's Exhibit No. 45 and ask you whether or not a copy of each one of these was distributed to you?

A. I think 47 was. It wasn't distributed to me by the writer of the document but I did receive it or did see it. The same thing is true—I did not receive a copy from the writer but another individual in the office routed it for me to see, Gen- [Tr. 1241] eral Counsel's Exhibit No. 45. The same thing is true with respect to General Counsel's Exhibit. It was sent to me by another individual. The writer of it did not send it to me and it appears to be the same thing with G.C.-48.

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Q. (By Mr. Byrholdt) This is the same Mr. Kronenberg that wrote the memorandum in evidence here as General Counsel's Exhibit 43, is that not so?

A. Yes, also the one that wrote 45 which was bucked to me by someone else.

Q. Mr. Wyatt, as a matter of practice, you were uniformly [Tr. 1242] given copies of these various bulletins put out at the branch offices weren't you?

A. No.

Q. Was not this the practice in the office as evidenced by General Counsel's Exhibit 45 through 48?

A. It appears there that Mr. Titcomb sent me those after he read them. I am sure—yes, I am sure that a good many plant news letters and general issues from the plant I didn't see.

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Q. (By Mr. Byrholdt) Was it not the company practice to funnel these bulletins through as chief negotiator for them in 1963?

A. No.

Q. Who did?

A. I don't think anyone felt they were assigned to see that they were circulated to me. I am sure there were many I never saw and still haven't.

Q. I show you again General Counsel's Exhibit 44. Is it not a fact that this was to keep you advised of the labor relations problems as they arose in the company?

A. Yes, this was a letter from Mr. Kronenberg addressed to me personally advising me that his union had taken a strike vote. It wasn't a general bulletin of any kind. It was a letter.

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[Tr. 1244] Q. (By Mr. Byrholdt) Mr. Wyatt, going back to the bulletin that the various branch offices put out from time to time, is it not a fact that the format for the information contained in those bulletins emanated from the Tacoma office?

A. Sometimes.

Q. Usually?

A. You mean the bulletins that came out relative to these negotiations?

Q. Yes.

A. I think the general format usually came—yes, as far as the branches were concerned I think the general format would usually come from Mr. Titcomb telling him to use their own words [Tr. 1245] but this is the general information.

Q. And that was the material that would be contained in these various bulletins from the branch managers?

A. This would depend a lot on the branch manager how much he wanted to use of the information and how much he may have relied on his own observation of the negotiations. Many of them attended most, if not all, of the sessions.

Q. Those would be the sources of information then for the material contained in the bulletin?

A. I am saying I think that most of the time I think the general information was made available to the branch manager by someone in Tacoma in order that they could

use it as the skeleton or base from which to develop an employee news letter if they wanted to write one. That is all I am saying.

[Tr. 1247] Q. (By Mr. Byrholdt) Mr. Wyatt, you testified previously about some of the work that the various so called subcommittees did in connection with the preparation of the Association agreement, April 22, 1963, I think you are familiar with the [Tr. 1248] report of November 30, 1962, are you not?

A. Yes, I have seen it.

[Tr. 1249] Q. (By Mr. Byrholdt) Mr. Wyatt, is Respondents' Exhibit 97-A the subcommittee's report as it was finally listed?

A. I think the subcommittee made other reports.

Q. Other written reports?

A. In the form of drafts of agreements.

Q. Was that all of the other subcommittee's reports that you recall at this time?

A. They reported on the contract clauses and so on as well as various member companies—the comparison of contractual [Tr. 1250] clauses as I recall.

Q. Are you familiar with the content of this report?

A. Not at the moment, I have read it sometime back.

Q. I refer you to the second page, titled the, "Subcommittee Report," and subtitled, "The Subcommittee's Assignment."

A. Yes. Do you want me to read it?

[Tr. 1251] Q. (By Mr. Byrholdt) Mr. Wyatt, you have had a chance to examine General Counsel's Exhibit 49, have you?

A. I just looked at this page.

Q. Is it complete?

A. Complete in what sense?

Q. Is that the entire subcommittee report?

A. I don't know. You mean are all the pages here?

Q. Yes.

A. As far as I know it probably is, I don't know whether there was any more to it at one time or not.

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[Tr. 1252] Q. (By Mr. Byrholdt) Mr. Wyatt, looking at the page entitled subcommittee's assignment, is that an accurate statement of the subcommittee's assignment?

A. This is something of a play on words. I would say, to answer your question, that I don't recall the exact words of the subcommittee assignment or the way it was said to them when they were asked to do this job. I would question whether it was said the way it is stated exactly in paragraph II here, I would doubt that some.

Q. Would you say that was the substance of the positions—strike that. Was that the substance of the assignment given the subcommittee?

A. I testified as to what I thought the assignment was on my direct examination and I don't think it was quite like this is. [Tr. 1253] In fact, it isn't very much like it.

Q. This exhibit was the basis upon which the Association was formed, was it not?

A. Oh, I wouldn't—I don't think I would say that, no. It was a piece of information that we studied, everybody looked at, answering some questions, from which they then went on and wrote agreements that we subsequently signed, which was the basis of the Association.

Q. Were there other similar subcommittee reports?

A. Similar?

Q. Yes.

A. I don't recall any, no.

Q. No other assignment to produce a report similar to this?

A. My recollection is just the suggested agreements and the other things I have mentioned which I wouldn't call similar to this.

Q. This is the only report of this type that the subcommittee produced?

A. I believe so.

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[Tr. 1254] Q. (By Mr. Byrholdt) Mr. Watt, going briefly to the work of the technical subcommittee, you testified last Friday that they prepared certain reports relative to the various contract terms contained in the contracts of the various companies with local unions with whom they had a bargaining relationship, is that true?

A. Yes, I believe they did.

Q. And you were given copies of those reports, weren't you?

A. I don't know whether I was given copies; I saw some of them.

Q. Were they not circulated to you?

A. I don't know, I don't remember.

Q. Did you receive copies of the analysis that accompanied the various contract terms?

A. I don't recall an analysis. The only thing I recall now is the list of clauses and the cross reference to the provisions in the various contracts. I am not saying there wasn't one; I don't recall it right now, I may have seen one.

Q. Was that all of the work of the technical committee, the preparation of these outlines of the contract terms?

[Tr. 1255] A. No.

Q. What other reports did they make?

A. It continued to work during the entire process of bargaining doing a great many individual chores that came up as being needed by way of information as I testified the other day on direct.

Q. Did they prepare various studies and positions during the course of their work?

A. It was more correcting information once we got started in bargaining. I don't recall them doing any studies as such but it was upon request of the negotiating committee, the executive committee, they would come in with information that we required to determine the impact of a given demand or something of this order.

Q. Can you recall specifically the nature of the reports they made on these different positions and the impact they would have?

A. Well, the ones I can recall were simply in some cases penciled notes that Mr. Greeley would write handing them to me in a caucus or before a meeting of the next day or something of this kind; to say this is what we summarized with respect to the union's demand or this is what we suggest, something of this kind. I think some of those were actually part of the exhibit together with my rough notes. I think some of those Greeley transcriptions actually came out of some meeting of the [Tr. 1256] subcommittee.

Q. Was that all of the work of the technical committee, the contract clause study plus the notes that are attached to your notes?

A. I believe so, I don't know what else they did.

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[Tr. 1257] Q. (By Mr. Byrholdt) Mr. Wyatt, I will call your attention to the meeting of June 4, 1963. You met on that day with the IWA, did you not?

A. Yes.

Q. Is it your testimony now that you met following that meeting with Mr. Nelson?

A. Yes.

Q. And where did you meet with him?

A. In his office.

Q. And what was the purpose of that meeting?

A. Well, I would say it had two purposes, essentially. One was to discuss ways and means out of the dilemma; perhaps better atmosphere or better ways to do it which is often the case in bargaining. The other was to be certain that it was understood that if any partial strike occurred that the rest of the Association would shut down.

Q. You are sure that is your recollection of the discussion?

A. I am sure that these two points were the reason for the meeting. That was your question wasn't it?

[Tr. 1258] Q. What did you tell him about a partial strike and use your words as best as you can recall them.

A. I don't know that I can recall specifically. I think the question of a possible selective strike or possible partial strike got into the conversation one way or another. My comment when that got into the discussion was that if that occurs the rest will go down.

Q. It is a fact, isn't it, Mr. Wyatt, that you didn't meet with him at all on June 4, 1963?

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A. I could have a date wrong, if that is what you are saying, but it is very very close to that date. It is right in that area.

Q. As a matter of fact, it was the next morning wasn't it, sir?

A. It may have been, sir.

Q. You met Mr. Taub at the office when you saw Mr. Nelson that morning, didn't you?

A. I don't remember whether I did or not.

Q. You are acquainted with Mr. Taub of the IWA?

A. Yes, I am acquainted with him.

Q. Didn't you call Mr. Nelson that morning—I am talking now about June 5, 1963, requesting a meeting?

A. I don't recall whether I called him that morning or the afternoon before as I testified previously. I know the meeting [Tr. 1259] took place immediately as soon as we could get together after the bargaining meeting of June 4.

Q. There wasn't any—

A. (Interrupting) It may have been the morning of June 5 as you suggest. I am not that certain.

Q. As a matter of fact, there wasn't any discussion of any lock out at all during that meeting was there?

A. Oh, yes.

Q. Wasn't the sole subject matter of that conversation how we could get out of this dilemma we were in?

A. Part of that discussion in addition to discussing how we could get out of the dilemma was my statement that the rest of the plants would go down. It was a statement on my part to that effect. If it occurred June 5 which might be that I had the wrong date before, then I may have already known there was a strike and I may have simply said that that would be the action of the Association.

Q. Tell me again what you told him about the lock out.

A. I said that—my statement was as I recall it as best as I can that the rest of the plants will go down.

Q. How did this come up?

A. I had felt that it came up by a matter of selective strike or the matter of selective strike being discussed in some way in the conversation. I don't know who did or how. Now, if the meeting took place on June 5, as you suggest, I [Tr. 1260] may have already known it and made it as a simple announcement.

Q. Mr. Wyatt, going to post strike or post settlement, if you will, negotiations by the Association, I think you testified on Friday that there have been some action taken by the Association since August 13, 1963, can you describe to me what negotiations or actions the Association has taken with regard to its relationship with the LSW and the IWA since that day?

A. What actions the Association has taken?

Q. Yes.

A. In negotiating actions?

Q. Yes.

A. Other than the meeting of the automation committee or the committee we set up to continue, I don't know of any Association Actions—oh, wait a minute. There is the whole matter of travel time. There were all the discussions involved in travel time.

Q. Have there been any other Association discussions with the IWA or LSW since August 13, 1963?

A. Association discussions?

Q. Yes.

A. Well, there has been additional discussions that I personally have had I think it is a question still as to whether that would be characterized as an Association discussion or not. I don't know whether it is.

Q. What discussions do you have reference to?

[Tr. 1261] A. I had an exploratory session discussion with Mr. Nelson and Mr. Hartley about the desirability of reconsidering and redoing or reconsidering the matter of seven-day week.

Q. You mean the hours of labor question?

A. What we call the hours of labor, yes.

Q. Where were those discussions held?

A. In Portland.

Q. When were they held?

A. I can't give you the date.

Q. Approximately.

A. It must have been perhaps a month ago, more or less.
I am not sure of the date.

Q. You say those were Association discussions?

A. No, I said I hesitated in answering your question. I didn't wish to withhold the information but I don't know whether you would call them Association discussions or Lowery Wyatt discussions or what.

Q. Did you request the meeting?

A. Yes.

Q. And on whose behalf did you request it?

A. Well, wait a minute, I think Mr. Witt actually arranged it.

Q. Would you identify him.

A. Scott Witt is the labor relations manager for Weyerhaeuser Company.

Q. And you met pursuant to a meeting he arranged?

[Tr. 1262] A. Yes.

Q. Did you meet as a member of the Association?

A. I had no concept in my mind as meeting as any particular thing. I was meeting to determine their attitude as it was at that time, many months after our difficulties of last summer as to whether there were any possibilities in their minds and I did make some statement about what I considered the desirability of taking another look in one form or another at this issue——

Q. (Interrupting) At the hours of labor issue?

A. Yes.

Q. Now you took this look with regard to certain specific plants, didn't you, Mr. Wyatt?

A. Yes, I suggested some plants that would make sense.

Q. They were two Weyerhaeuser Company plants weren't they?

A. Yes.

Q. Where were they located?

A. At Snoqualmie Falls, Washington and I believe Springfield was the one we started discussing.

Q. You didn't make any overtures with regard to any plants of any other members of the Association, did you?

A. No.

Q. You were solely concerned for the Weyerhaeuser Company when you spoke about these hours of labor changes, weren't you?

A. I was concerned with determining what the attitude of these [Tr. 1263] gentlemen might be.

Q. Toward Weyerhaeuser?

A. Towards hours of labor.

Q. Toward Weyerhaeuser Company?

A. I think what would have had to be done with respect to any other plants would have to be determined after that attitude was determined. I don't know what we would have had to do; I presume the lawyers would have had to get into it and determine what action would be required to effect any agreement that we may have been able to reach.

Q. The 1963 settlement of August 13 closed the issue of hours of labor didn't it?

A. No.

Q. It did not?

A. It didn't mention the hours of labor.

Q. It closed all terms of the contract, didn't it?

A. I presume it had something like that—that it closes all, I have forgotten the exact closing paragraph but it says something to the effect that the contracts were closed.

Q. Well, you were then negotiating specifically for the Weyerhaeuser Company, weren't you?

A. I don't know who I would have been negotiating for or would be if we can find a way to reopen this issue on behalf of a company, a local plant, and there are local plants who have these arrangements already on a local basis. To me, it was [Tr. 1264] necessary even as it was early in this Association to determine what is the attitude and one way conceivably if the Association members agreed might be to approach it on a local basis since there are Association locals who have agreed to this kind of a provision, that is a way. It couldn't have been done without Association approval and perhaps others as well and obviously the unions.

Q. You didn't have any authority from the Association to engage in these discussions, did you?

A. No; Not specifically. These were discussions that the Association members had talked about taking up in connection with their joint committee that we hoped would meet during the term of this contract. It has been suggested to me by a number of Association members that this issue ought to be discussed in that committee.

Q. Is it not true that the only people present were officials from the Weyerhaeuser Company?

A. And the two union gentlemen, yes, this is correct.

Q. Now, going back to this automation committee that was set up, I think you testified pursuant to the August 13, 1963 settlement.

A. Yes.

Q. When did it first meet?

A. Last fall sometime. I believe maybe late fall or maybe early fall.

[Tr. 1265] Q. Where did the meeting take place?

A. In Portland.

Q. Were you present?

A. Yes.

Q. Who else was present at the automation committee meeting?

A. Mr. Hallin was present, Mr. Forrest, Mr. Kelsey, I believe Mr. Boddy, myself, Mr. Nelson and Mr. Hartley. I think Mr. Prusia was present but I am not sure about that. There were two or three other union people other than Mr. Nelson and Mr. Hartley as I recall.

Q. This was you say the automation committee?

A. What we called it when we got to the final settlement, I have forgotten. It was the committee as I recall, that has a number of things it can discuss that we set up to continue to work during the life of the contract.

Q. Is that the only meeting that committee has had?

A. Yes. I did suggest to these gentlemen in my recent meeting that we should continue to have these meetings and we should schedule another one. We discussed the possibility that we might have one while were in Seattle on these hearings, it was a possibility.

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[Tr. 1286] Q. (By Mr. Byrholdt) Mr. Wyatt, going back briefly to the [Tr. 1287] question of local issues, would you define that term?

A. Well, it would most certainly be my personal definition as I understand it. A local issue is one raised for bargaining discussion by a local union or a local or a mill level issue.

Q. Distinguish between company and union as you define this, if you would sir.

A. By a local union or by a company mill, or operation, for bargaining tendered by the parties to take place at the local level between their local committees.

Q. Referring you to the discussion that was had at the outset of negotiation in 1963 between the IWA, Regional III, and the Big Six, there was an issue raised by Mr. Nelson relative to so-called local issues, was there not?

A. Yes.

Q. And the question arose out of the fact that U. S. Plywood had opened locally, the company had opened locally, on hours of labor, is that not true?

A. That was one of the issues raised, yes. There were other local issues, as I recall. The fact that St. Regis had some openings and so on.

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[Tr. 1288] Q. (By Mr. Byrholdt) I am particularly directing your attention to April 24, 25, and 26.

A. And your question was the gist of the——

Q. (interrupting) Strike the last question.

Was it not a fact that the union did not wish to be placed in a position of having to bargain with the Association about hours of labor and then have the company take them back and bargain again about hours of labor at a particular plant or operation?

A. Yes, that was one of the points raised.

Q. This issue was not resolved at those meetings, was it? Yes or no.

A. When you say those meetings, are you saying——

Q. (Interrupting) April 24, 25, and 26.

A. I cannot recall the date it was resolved, but as part of the process of the discussing it at those meetings, plural, it was resolved.

Q. When you say it was resolved, you mean it was put aside?

[Tr. 1289] A. Well, those are your words, sir. We proposed, as I have already testified, that they be brought in and negotiated at the Association level and we didn't agree to do that and—

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Q. (By Mr. Byrholdt) Yes. Going to the St. Regis Company, prior to April 1, 1963, St. Regis opened all items of all contracts, did they not?

A. I heard that, I believe, the unions made that statement in the bargaining, yes. I recall the statement being made.

Q. And Mr. Roberts responded and conceded that in fact that was true, did he not?

A. I don't know, I don't know whether Mr. Roberts made the statement or not.

Q. Let's get away from Mr. Roberts. You remember the statement being made by someone on behalf of the St. Regis, don't you?

A. It was my impression that we did not dispute or the Asso- [Tr. 1290] ciation had no reason to dispute the statement made that St. Regis had opened all their contracts.

Q. Yes.

A. (Continuing) I don't recall how I found that out, whether I asked somebody or the statement was made in the bargaining session, or just how it was, but it is my recollection that I determined that this was true, that they had been opened.

Q. St. Regis had representatives at all those meetings with the IWA that took place in 1963, did they not?

A. Yes, I believe so.

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[Tr. 1291] Q. (By Mr. Byrholdt) Mr. Wyatt, the association and its members commenced bargaining as we know in April. The contracts between the Association members, the separate contracts covering the separate operations of the six members, all terminated on or about June 1, 1963, did they not?

A. I believe that at least the overwhelming percentage did. I am not certain that that was one hundred per cent true, but it [Tr. 1292] was certainly my recollection that was generally the case.

Q. As you know in your long experience in the labor field, Section 8 (d) (3) of the Taft-Hartley Act requires that notice be given the Federal Mediation and Conciliation Service 30 days prior to the termination of those contracts. Was such notice given by the Association?

A. I don't know.

Q. Was such notice given by the Weyerhaeuser Company?

A. I have no recollection of the point, one way or another.

Q. Do you know whether the other five members of the Big Six gave such notice?

A. No, I don't sir.

Q. You have no knowledge of the Association giving such notice?

A. No, I have no knowledge of our giving such notice.

Q. Do you know it was a fact that none was given? I am talking now about the Association.

A. I don't know it as a fact one way or the other, Mr. Byrholdt. I could not swear that we did or that we didn't.

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[Tr. 1293] Q. (By Mr. Byrholdt) Mr. Wyatt, going briefly to the question of the production you made in response to my subpoena, during 1963 you were in charge of the labor relations for the Weyerhaeuser Company, were you not?

A. No.

Q. What were your duties in 1963?

A. Throughout the year 1963 my duties were assistant vice-president to the executive vice-president.

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[Tr. 1295] Q. (By Mr. Byrholdt) In what department are the labor relations files with the Weyerhaeuser Company kept?

A. The personnel department.

Q. Exclusively?

A. I would say that there must be, there are at least one individual outside the personnel department who has files that might contain labor relations matters of one kind or another.

Q. Who is that one person?

A. I am.

Q. Pursuant to the subpoena served upon you by the General Counsel, did you search the personnel department's files?

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[Tr. 1296] Q. (By Mr. Byrholdt) You can't read it, you say, sir?

A. That's a fact.

Q. What does it say at the outset Mr. Johnston stated to you on that day?

[Tr. 1297] A. There are two words or three words, rather, the first one says Danny.

Q. Who does that refer to?

A. Mr. Daniel Johnston.

Q. Then what does it say?

A. Not recognizing.

Q. That is the way it appears on the original of your minutes, is that not correct?

A. Yes, sir.

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[Tr. 1304] Q. (By Mr. Toulouse) Rayonier, its principal business is production of what, paper, chemical, and lab products?

A. Papers, specific kinds of paper.

Q. And International Paper, its specific field is primarily the production of paper and paper products?

A. No, well, I can't testify, Mr. Toulouse, personally of my own knowledge of the breakdown of their business, I know they are also in the lumber and plywood business.

Q. That is an industrial phase of their primary business, is [Tr. 1305] it not?

A. I think they are more heavily in paper, I think.

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Q. (By Mr. Toulouse) Crown Zellerbach is primarily in the paper business and it is only incidentally in the wood products industry, to your best knowledge?

A. I think that would be the majority of their volume, probably.

Q. And the bulk of it?

A. I would like to back up on International Paper, if I may. I don't know that they are heavier in paper than they are in lumber and building materials, personally, I don't know.

Q. And as far as St. Regis is concerned?

A. I don't know how their business breaks down.

Q. This technical committee furnished you reports with respect to the various facets of their business from time to time, didn't they?

A. Various facets of their business?

Q. Of International Paper, Crown Zellerbach, St. Regis, and others, as far as they negotiations were concerned.

A. Well, I don't know what facts, what facets of the business are. They furnished me no information that I can recall relative to volume of sales in one category versus another or the [Tr. 1306] preponderance of their business that was in any one line.

Q. Well, the reason I ask you these questions, as I gathered from you during the course of your direct examination you indicated that the hours of labor article was prepared and was of primary importance to Weyerhaeuser at this time because it had the plants that were capable of working seven days a week, a 24-hour day, and so forth.

A. I think that what I said, Mr. Toulouse, was that we did suggest the item for inclusion in the Association openings. We suggested it. It was unanimously approved and—

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A. (Continuing)—as being a desirable opening.

Q. (By Mr. Toulouse) But my inquiry is directed to it did not necessarily affect their particular type of operation. In other words, they are not heavy in plywood, are they?

A. The only organization here that I know of that was not affected or would have used the provision that we sought was Rayonier.

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[Tr. 1307] Q. (By Mr. Toulouse) Showing you what has been marked LSW No. 1, I will ask you what that is.

[Tr. 1308] A. It appears on the first printed page after page 1 that is headed Working Agreement between Twin Harbors Branch, Aberdeen Mill and the Lumber and Sawmill Workers Union No. 3099, 1961 to '63 Working Agreement.

Q. (By Mr. Toulouse) That is the working agreement between that local and that Weyerhaeuser plant at that location?

A. I certainly have no knowledge on which to doubt it. I haven't seen this book before but I don't believe I have.

Q. I ask you to take a look at Article I on page 1 of the Working Agreement.

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Q. (By Mr. Toulouse) Let me ask you this Mr. Wyatt, after examining that Working Agreement, state whether or not it is or is not a fact that that is the collective bargaining agreement between Local Union 3099 and that plant at that location [Tr. 1309] at Twin Harbors, the Aberdeen Mill.

A. Only by comparing it with a contract between that Local and that mill that I know to be the contract could I answer that. I wouldn't have any idea in reading this.

Q. Can you look it over and recognize whether or—

A. (Interrupting) I beg your pardon.

Q. Could you by reading the contract over know whether that is or is not the contract that you opened?

A. I could not. I only know that it says it is an agreement between us. This document which I have not seen before says that it is as I have already read but I couldn't

tell you sir of my knowledge whether this is the Working Agreement that was in effect from 1961 to 1963 without having a copy that I knew to be that agreement without comparing the two.

Q. I will ask you this. Did you know as a fact that the Weyerhaeuser Company, the Twin Harbors Branch did during the period, 1955 up through and including June 5, 1963, recognize local union No. 3099 as the sole collective bargaining agent for regular employees in its sawmill and boom operation at Aberdeen, Washington as certified by the National Labor Relations Board in its certification order of August 23, 1955?

A. No, I couldn't so testify of my personal knowledge.

Q. You don't know that as a fact?

A. I do not commit to memory the number of each local throughout Weyerhaeuser Company. I don't know of my personal knowledge [Tr. 1310] what their relationship may have been prior to 1957 at least. No, I couldn't so testify, sir.

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Q. (By Mr. Toulouse) At Aberdeen.

A. That is a branch. Your question was whether they opened their working agreement during what year?

Q. During the year 1963.

A. You mean local openings?

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[Tr. 1311] Q. (By Mr. Toulouse) All right. Showing you what has been marked LSW-2 will you state what that particular instrument is?

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A. This appears to be a letter written by Mr. Jack Titcomb to Mr. Ratkie which does—in which he is opening or he is responding or acknowledging receipt of a letter he apparently received from Mr. Ratkie and opening the existing working agreement between your union and this company in certain respects.

Q. (By Mr. Toulouse) And this letter is directed to Local Union 3099, is that correct on LSW-2?

A. Yes.

Q. And do you recognize Mr. Titcomb's signature?

A. Yes, I do.

Q. There is no question in your mind about the genuineness of that letter?

A. I don't know the legal ramification of genuineness but it appears to me that this is and seems like an original letter signed by Jack Titcomb and I do recognize that signature.

Q. Is it your opinion that he was opening the contract that is [Tr. 1312] marked LSW-1?

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A. I do not know of my knowledge whether this printed document is the contract which is between 3099 and between Twin Harbors Branch.

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A. (Continuing) I do observe that this appears to be an original letter signed by Jack Titcomb which opens an existing working agreement. That is what this letter says.

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[Tr. 1313] Q. (By Mr. Toulouse) In other words, you do know that LSW Local 3099 shown on Exhibit A to the purported Association agreement was the collective bargaining agreement at Aberdeen for that particular plant for Weyerhaeuser?

A. I am concluding that from an observation of LSW-2. I have already said I haven't all the locals memorized by number and by location but I will accept the fact that Mr. Titcomb's letter was addressed to a business agent of 3099 and from that I can conclude that local 3099 must be the number of the LSW local which represents employees at Twin Harbors, Aberdeen Mill.

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[Tr. 1314] Q. (By Mr. Toulouse) I show you what has been marked as R-206 in evidence and I will ask you whether or not on the last page thereof it appears that Weyerhaeuser

had collective bargaining contracts with certain local unions on or about the date April 22, 1963, that they had collective bargaining agreements with the locals shown on page three of the exhibit?

A. Yes.

Q. Does that refresh your recollection at all?

A. Well, rather I would say it—observing this I would make the affirmative statement that LSW, Local 3099 was the local involved in our Aberdeen operation, yes.

Q. I will ask you, isn't it a fact that LSW Local 3099 was a collective bargaining agent at Aberdeen, Washington for Weyerhaeuser at that time?

A. Yes.

Q. In the unit of production and maintenance employees at that particular plant, isn't that correct?

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[Tr. 1315] A. I do not recall the recognition clause of Local 3099's agreement with Twin Harbors branch, Aberdeen, Washington.

Q. (By Mr. Toulouse) But you do recall that Local 3099 was a recognized collective bargaining agent for the production and maintenance employees at Aberdeen?

A. Again, I don't recall the recognition clause as to what kind of a unit it is.

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Q. (By Mr. Toulouse) Are you familiar with the fact whether or not Local 3027 was a collective bargaining agent in the unit of production and maintenance employees with the Weyerhaeuser Company at its location at Arcata, California involving also separate contracts, woodlands and timberlands, is that right?

A. Do you want the record straight on that? It isn't timberland, it is Timblend, T-i-m-b-l-e-n-d. It is a product name which is produced by a debarkment of that plant which has this [Tr. 1316] document 206. R-206 tells me they have separate contracts apparently. I can't even testify even from 206 as to my knowledge of whether these are production and maintenance units.

Q. Do you know what the unit was?

A. I beg your pardon?

Q. You don't know what particular unit was involved?

A. No.

Q. But it was a plant-wide unit, wasn't it?

A. No, I would say in the case of Arcata that it wasn't. There seemed to have been and my recollection is, that we have several contracts covering that operation, more than one at least and historically that plant is divided; there is not only a plant contract and a wood contract but there is a subdivision of the plant contract as I recall, that is my recollection.

Q. In any event the two locals shown on the last page of the exhibit of R-206 were the collective bargaining agents at those particular locations with Weyerhaeuser in the year 1963?

A. This R-206 indicates that an R-206 was made up correctly and was correct; I know.

Q. Each one of those locals to your knowledge opened their respective contracts at those locations shown on page three, I believe it is of the attachment to R-206?

A. I am not sure that all of them did. I know we received openings from the locals, yes.

[Tr. 1317] Q. You also know, do you not, that each one of your branch operations shown on page three of Exhibit A to R-206 was directed to open their respective contracts with those locals shown on page three of Exhibit A to R-206?

A. All of our operations that had contracts—well, all of the operations shown in Exhibit A.

Q. That is Weyerhaeuser?

A. Weyerhaeuser, yes, who had contracts with those locals, yes.

Q. Now, do you recall seeing the original of R-202 at some prior time?

A. Yes.

Q. You said each of those locals shown on Weyerhaeuser locals shown on R-206 opened their contracts, that they all occurred prior to April 1, isn't that correct?

A. Yes, they had to accomplish the requirement of notice. I am not sure that is a good word.

Q. You mean the previous 60-day notice?

A. The 60-day notice prior to expiration, they had to open prior to April 1.

Q. That is the 8-day notice, Mr. Byrholdt spoke about?

A. No, the 60-day notice in each of the working agreements.

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[Tr. 1318] Q. (By Mr. Toulouse) You wrote this letter of April 17 for the purposes therein mentioned, is that correct?

A. I signed the letter, yes.

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Q. (By Mr. Toulouse) When you testified down at the Unemployment Compensation hearing you testified you wore two hats, didn't you?

A. No.

Q. No, well taking your language that the Association and this Company will meet with you, I will ask you whether or not it is not a fact that you were present at every meeting with LSW?

[Tr. 1319] A. Yes, sir.

Q. And you likewise represented Weyerhaeuser Company at that meeting, did you not?

A. Not at the meetings with the LSW. I represented the Association in the meetings with LSW.

Q. You represented the Association in the meetings with the LSW?

A. Yes, sir.

Q. You had no function in acting for Weyerhaeuser Company?

A. In the meetings with the LSW, I did not. I was acting as chairman of the Association negotiation committee. In the Association meetings of the Association members, I represented Weyerhaeuser Company in determining upon an Association position.

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Q. (By Mr. Toulouse) Did you make reference to what capacity you spoke in?

A. I think it was abundantly clear—

Q. (Interrupting) I didn't ask you that. I said, Did you at any time make any reference as to what capacity you spoke in?

A. I am sure that I indicated at the outset of both negotiations [Tr. 1320] that I explained this was an association and I was serving as the spokesman or chairman of its negotiating committee, yes.

Q. Which hat were you wearing when you talked to Mr. Hartley on or about February 19, at Tacoma?

A. As a representative of a group of employers who were considering the possible advisability of forming a multi-employer bargaining association.

Q. And you were not talking on behalf of Weyerhaeuser at that time?

A. Only to the extent that Weyerhaeuser was one of the group of the employers.

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Q. (By Mr. Toulouse) You had several meetings in connection [Tr. 1321] with this Association that came up through and including the time it was ultimately executed on April 22, is that correct?

A. We had a number of meetings; was that your question?

Q. Yes.

A. Yes.

Q. And this Association actually consisted of five principals?

A. Five principals.

Q. There were six principals—principal companies all together?

A. When it was finally executed April 22?

Q. Yes.

A. Yes, six principal companies.

Q. And you had no by-laws that made you a chairman, is that correct?

A. That's correct.

Q. The only piece of paper that is in existence that regulates the conduct of this Association is this Exhibit R-206, is that correct?

A. There are many letters, communications, statements of positions and so on and I don't know whether they con-

stitute a document that might regulate or control in some way the performance of the Association or not.

Q. Is there any document in existence that purports to modify, change, or alter the relationship of the six companies that are [Tr. 1322] parties to Exhibit 206, R-206?

A. You said—may I have the question please?

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A. I don't know of a document that purports to change or modify R-206.

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[Tr. 1323] Q. (By Mr. Toulouse) You- answer is there is no document?

A. There is nothing that changes or modifies or adds to 206; I know of no such document.

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Redirect examination.

Q. (By Mr. Prael) Mr. Wyatt, I refer you to the transcript yesterday page 1196 where you were asked by Mr. Byrholdt as follows: "Q. Now at the time you were negotiating with the IWA [Tr. 1324] in 1963, commencing in April, you never furnished the IWA with any copy of the agreement that is in evidence here as the Association agreement, did you?" "A. No."

My question is, did the IWA at any time during the negotiations which began on April 24 and continuing through—well, August 14, did any representative of the IWA ask you for a copy—that a copy of the Association agreement be furnished it?

A. No, sir.

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[Tr. 1326] Q. (By Mr. Prael) Is it reported correctly?

A. I don't know if it is reported correctly.

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Q. (By Mr. Prael) Do you have any explanation?

A. Pardon?

Q. Did you finish your answer?

A. If that is reported correctly, then I certainly misspoke myself in that—at that point and I certainly did not testify in accordance with my knowledge of what the facts are with respect to the right of a single individual company to abrogate or to prevent an action by the Association.

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[Tr. 1327] Q. (By Mr. Prael) Let me ask this question. Is it a fact that [Tr. 1328] at any time since the Association was formed that anyone member of that had a right to abrogate any action to be taken by the Association in making an offer?

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[Tr. 1330] A. To the extent that that transcript indicates that I intended to convey the knowledge that one company could prevent the action of the Association by itself, certainly I misspoke myself or said it incorrectly or it was reported incorrectly because I have always known before and since, that no one company can abrogate or could abrogate any action that the Association wishes to take as demonstrated primarily by the votes of the Association action-executive committee to drop the hours of labor issue and to make the final offer of settlement. Now, if you ask me—to the extent that that testimony says that I believed at that time or at any time that one company by itself in either the Lumber and Sawmill negotiations or the IWA negotiations could abrogate the agreement by its sole vote then I either misspoke myself or had something else entirely in mind.

Q. (By Mr. Prael) Mr. Wyatt, I will show you R-206 which is the agreement of April 22, 1963 and call your attention to paragraph five of that agreement. Is there any lateral written [Tr. 1331] or oral agreement of any kind in existence or has there been any written or oral agreement in existence qualifying or changing the provisions of that paragraph of R-206?

A. None, no.

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Q. (By Mr. Byrholdt) When you gave your testimony on the California transcript as appears on pages 137 and 138, you didn't misspeak yourself, did you sir?

A. To the extent that that testimony is to the effect that I believed at any time that one company could abrogate an action of the Association I certainly must have misspoken myself unless it was improperly written down or unless I was mathematically confused. By this I mean we had some colloquy or discussion in one of these hearings where we got all jazzed up on what 80 per cent or 75 per cent of five actually amounted to.

Q. You didn't misspeak yourself, did you when you made your statement on page 137?

A. I don't know.

Recross examination

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Q. (By Mr. Byrholdt) It is a fact that you made the same statement earlier in the same proceeding, did you not?

A. I have already testified that in either this or another [Tr. 1332] proceeding we had some confusion between myself and a questioner as to what percentages of what would qualify.

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[Tr. 1333] Q. (By Mr. Byrholdt) "What when and who was present?" "In the same discussion we talked about the ability of any one member because of the 75 per cent clause in the Association agreement by a negative vote prohibit or negative collective bargaining action." "With respect to the Association which I think—well, I guess you don't want what I think. The discussion had to do with the meeting, had to do with a great many issues before us, I believe it was Mr. Johnston's testimony that I indicated certain confusion and there certainly was with respect to a number of positions, a number of issues before us, a number of points of differences, a threatened strike and the fact as I mentioned it that if a partial strike took place the rest of the company would shut down or were bound to shut down. Now, in connection with many of

these issues and much of this confusion, in response to a question I replied that one member, the way the Association was constituted could prevent any given action on the part of the Association on collective bargaining." End of answer. Is that accurate?

[Tr. 1334] A. I don't know, I know that just prior to this question and answer I was being asked whether one member, a direct question could abrogate a lock out decision, just prior to this question and I answered no and my concentration was on the subject whether any one member could abrogate a lock out. Having said this, later in this hearing I came back and corrected myself to the extent of saying that my mathematics got haywire on the 75 per cent. In the LSW proceedings to my recollection, there was never a need in connection with a collective bargaining action to take a vote of the Association until the settlement. Later in this record there is an expression by me that I was confused on what 75 per cent of five and 75 per cent of 6 were. And at this time, I was concentrating on the question of the ability to abrogate a lock out.

Q. Now, you are saying any one member could abrogate the lock out agreement?

A. No, I said they could not. I said so just in a question before this; just prior to this testimony a question was asked me directly.

Q. Let's state what I have said.

A. I am trying to tell you what I had in mind and there was a question just preceding this where I was directly asked if one member could abrogate a lock out agreement and I said no and that is what I was concentrating on and apparently in a couple places in the California transcript I was either concentrating [Tr. 1335] on my answers with respect to a lock out in which no one member could abrogate the agreement and made a different or apparently a different statement with respect to other collective bargaining actions. The facts are and were that no one member could abrogate any action by the Association.

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[Tr. 1336] Q. (By Mr. Byrholdt) A moment ago Mr. Wyatt, you indicated that you gave the answer which I

read into the record that you later explained it, is that correct?

A. I don't know. I don't remember exactly what I just said. Is that what you are asking?

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[Tr. 1338] Q. (By Mr. Prael) I will show you page 85 of the transcript. As I understood your testimony you referred to a question asked you and an answer given by you immediately prior to the questions referred to by Mr. Byrholdt, would you look at page 85 and tell me what the question was and the answer was?

A. Yes.

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[Tr. 1339] A. The question to which I had reference and tried to testify and the answer to one of Mr. Byrholdt's question was the one that appears on line 17 in which the question reads, "Did you at that time tell Mr. Johnson that any one member of the employer Association could abrogate the lock out agreement?" and the answer is, "No."

Q. (By Mr. Prael) That was your answer?

A. Yes.

Q. All right, I call your attention to page 92 and ask you to look at page 92, General Counsel's Exhibit No. 42, and after you have read it I will ask you the question.

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A. Well, this is the point in the hearing that I said the document was handed to me and I started—I don't know what I was talking about, all right, not settlement agreement, excuse me, the Association which is attached here.

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[Tr. 1340] Q. (By Mr. Prael) Mr. Wyatt, as I understood your testimony, when examined by Mr. Byrholdt, you referred to the fact that after the question show on page 85 was asked you, 85 of the transcript which is General Counsel's 42, you said that later in the hearing you were asked further question regarding this subject and the right

of one person to abrogate action of the Association in connection with collective bargaining, can you point to the page in the transcript with that testimony or where that appears?

A. Yes, it appears on page 92, line 8.

[Tr. 1371] Q. (By Mr. Prael) Did the Association at any time propose to bargain only on openings by the company?

A. No.

Q. What other openings did the Association propose to bargain on?

A. Any openings made by the union and openings by us, the subject matter before us brought by either or both sides.

[Tr. 1406] Whereupon HARVEY R. NELSON was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

[Tr. 1407] Direct examination.

[Tr. 1408] Q. By Mr. Byrholdt) Mr. Nelson, what is your present occupation?

A. I am the president of Western States Regional Council No. III of the IWA.

Q. Where are your offices?

A. In Portland, Oregon.

Q. How long have you held that post?

A. I have held it since the formation of the region in August of 1959.

Q. Mr. Nelson, prior to that time, have you had any other positions with the IWA, and could you briefly outline them for us?

A. Yes. Immediately prior to that I had served in the capa- [Tr. 1409] city of president of what was known as the Columbia River District Council No. V commencing in 1942. Immediately prior to that I had been an employee of that district council, a short time prior to that I had been a local union business agent, and the local union president within my own local union.

Q. Have you spent all of your adult life here in the Northwest?

A. Yes, I have.

Q. Have you worked at all in the lumber industry in the Northwest?

A. Yes.

Q. When did you commence to work in the lumber industry, if you can tell me?

A. I commenced to work in the lumber industry when I was 11 years old, greasing skids and horse logging.

Q. Did you work in this industry at all times prior to commencing your activities as a union representative?

A. From the time I was 17 until I went to work for the union in 1937 I worked continuously whenever work was available within the Northwest logging industry.

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[Tr. 1410] Q. (By Mr. Byrholdt) Let me confine the question, if I may, Mr. Nelson, to this point in the distant past. Has the bargaining particularly been through a variety of employer associations?

A. Employer associations and independent employers.

Q. Now, if you might, I will direct your attention to the preceding six or seven years, and if you will, will you describe for us the pattern for bargaining in the lumber industry during that period of time, commencing in about 1957 or 1958, wherever you think it is appropriate.

A. There has been a combination of a little of everything. There has been various associations, as such, representing employers at different times in different years or during negotiations. There has been a combination of associations meeting collectively to carry out negotiations. At some time some employers, employers representatives, as individuals, sometimes sat in those negotiations with the several associations representing themselves. As-

sociations disbanded in some cases and merged, creating new ones, and some of the, particularly the larger companies, have negotiated in their own be- [Tr. 1411] half, but for all of the divisions or the branches of those individual companies wherever they may be located.

Q. Well, now, Mr. Nelson, I direct your attention to the formation of the Timber Operators Council, are you familiar with the operation of that organization, when it was formed?

A. Yes, it was formed in 1960.

Q. Can you describe its general make-up without enumerating the members?

A. Well, its general make-up is made up of various employers insofar as those whom our union deals with in the States of Oregon, Washington, and one or two in Northern California. Some, at least their stated figures are that they represented some 190-odd employers during the 1963 negotiations.

Q. Directing your attention to 1961, can you outline for me the Timber Operators Council negotiations that took place then, and I specifically direct your attention to any of the so-called Big Six companies in there that may have been participating in those negotiations?

A. 1961 was the first year in which we negotiated with the Timber Operators Council as we refer to them, the T.O.C. One of the subject matters in negotiation that year was a matter of pensions. As we met in negotiation or prepared to meet International Paper Company, Mr. Greeley, who was a representative of theirs, authorized T.O.C. to represent that company with the exception of the matter of pensions. He discussed with [Tr. 1412] me personally whether or not our union would object if he sat on a member of T.O.C.'s negotiating committee with the reserved authority on the matter of pensions. I advised him I had no objections. As negotiations proceeded and as we got down to where the T.O.C. committee had to make a decision on whether to reach an agreement with us on pensions in line with what had previously been done in the industry or possibly face a shutdown, four of the companies who are now members of the Big Six handed to us letters one morning at the commencing of negotiations announcing they were withdrawing from Timber Operators Council

and that they were leaving the negotiation and that they would be willing to meet with us individually, and elsewhere, and Mr. Greeley, on behalf of International Paper, left the bargaining table, Mr. Boddy of Crown Zellerbach left the bargaining table; and Mr. Bradshaw, of Rayonier Incorporated, left the bargaining table; and Mr. Batchelor, of U. S. Plywood Corporation, left the bargaining table. And along with them a Mr. Steiner, representing Hines Lumber Company, left the bargaining table and left two T.O.C. staff people and one employer representative sitting at the bargaining table to conclude negotiations.

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[Tr. 1414] Q. (By Mr. Byrholdt) Mr. Nelson, I will show you what has been marked General Counsel's Exhibit No. 64, can you tell me what that is?

A. Yes, that is a copy of a letter which I received in 1961 [Tr. 1415] from the International Paper Company addressed to Local 3-17.

Q. To what does it relate?

A. It relates to—

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Q. (By Mr. Byrholdt) I show you what has been marked General Counsel's Exhibit 65. Will you tell me what that is?

Mr. Prael: Is that for identification only at this point, Counsel?

A. It is a letter of April 3 from Rayonier addressed to Local 3-30 advising them—

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Q. (By Mr. Byrholdt) I will show you what has been marked General Counsel's Exhibit 66, can you identify that? [Tr. 1416] A. It is a copy of a letter which I received in March, dated March 29, 1961, addressed to Local 3140, International Woodworkers from United States Plywood Corporation for its Oregon Division.

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Q. (By Mr. Byrholdt) I will show you General Counsel's 67, was that letter received by you, Mr. Nelson?

A. Yes, it was.

Q. I will show you now what has been marked General Counsel's No. 68, can you identify that?

A. Yes. It is a copy of a list of the company names and local unions furnished to me by the Timber Operators Counsel during 1961 negotiations setting forth the names of the companies who had delegated authority to Timber Operators Counsel to bargain on certain items.

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[Tr. 1424] Q. (By Mr. Byrholdt) First, perhaps you better describe or tell us which companies were in T.O.C. in 1961, and if you know, for what purpose the T.O.C. represented them.

A. Do you mean all of the T.O.C. companies or those companies who are now part of the Big Six?

Q. Those that were part of the Big Six.

A. The four companies I previously named, U. S. Plywood Corporation, Crown Zellerbach, Rayonier Incorporated, and International Paper.

Q. Did those companies delegate general bargaining authority to T.O.C. in 1961?

A. Yes, they did; the exception being the matter of pensions, which I previously referred to by International Paper.

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[Tr. 1426] Q. (By Mr. Byrholdt) Mr. Nelson, going back to the 1961 negotiations that were carried on through Timber Operators Council by International Paper, Crown Zellerbach, Rayonier, and United States Plywood, can you tell me, generally, how the United States Plywood Company, for example, conducted its negotiation through the T.O.C. in 1961?

A. Well, U. S. Plywood conducted its negotiation through T.O.C. with a representative in 1961, with a representative sitting on the T.O.C. bargaining committee.

Q. Who was he?

A. Mr. Miles Batchelor, until he served notice that his company was withdrawing and left negotiations. Following that time we then met with U. S. Plywood as an individual company for all of its branches scattered throughout the Northwest and negotiated with them finally to a conclusion of the items opened that was initially opened for general negotiation formerly authorized to T.O.C., plus local union openings and the local [Tr. 1427] employer openings at each branch level.

Q. Was that done plant by plant?

A. It ended up that U. S. Plywood brought all of its branch managers into a single meeting or single meeting place—

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[Tr. 1428] Q. (By Mr. Byrholdt) Mr. Nelson, calling your attention again to the manner in which the 1961 negotiations were carried out following the withdrawal of U. S. Plywood from T.O.C. and would you outline generally—I think you have testified the various plant managers met with you. Would you go on from there?

A. Well, each one of the subjects which were opened were discussed and final disposition reached, including a separate pension plan for U. S. Plywood and the IWA, separate and apart from the T.O.C. pension plan. There was also a committee, as was usual form in 1961, an agreement reached for the establishment of committees to study and make recommendations on working out uniform language for the various contracts to be incorporated at a later date.

[Tr. 1429] Q. Were the negotiations on a plant-by-plant basis that you referred to?

A. No, they were not.

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[Tr. 1430] Q. (By Mr. Byrholdt) How were those contracts opened on behalf of those companies, Mr. Nelson?

A. They were opened by each of the local unions and the company for each of its divisions having contracts with that local union, by each serving notice at least 60 days in advance of June 1.

Q. By what process did the Timber Operators Council come to represent those two companies in negotiation?

A. By Crown Zellerbach giving notice to the local union, copies to the Regional, and notice to T.O.C. that they were giving limited authority to bargain to T.O.C.

Q. Mr. Nelson, I will show you General Counsel's Exhibit No. 67. Is that the notice of withdrawal of authority from T.O.C. by those two companies, Crown Zellerbach and U. S. Plywood in 1961?

A. No, it was a separate notice from this. There was a notice from each one of the individual companies given to the unions negotiating committee.

Q. I am afraid I don't understand your answer, sir.

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[Tr. 1431] A. This letter is the letter from Timber Operators Council to me notifying me that these named companies had revoked their authority given to the Council and that the letter was served to notify them that Timber Operators Council no longer was authorized to represent them and also refers to letters which were given prior to our committee by each of the companies.

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Q. (By Mr. Byrholdt) Mr. Nelson, in 1962 were there any negotiations on behalf of any of the members of the Big Six through T.O.C.?

A. Yes.

Q. Which companies were they?

A. The same four named companies.

Q. And name them, if you will.

A. Crown Zellerbach Corporation, Rayonier Incorporated, U. S. Plywood Corporation, and International Paper Company.

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[Tr. 1432] Q. (By Mr. Byrholdt) Mr. Nelson, I will call your attention to terms that have been frequently used here in the testimony. First of all, the question of local openings. Would you define your understanding of the meaning of those words?

A. My understanding of the meaning of the reference of local openings is contract openings which are served upon an individual employer on plant manager by a single local union and an opening notice served upon a single local union by an individual plant manager of a company, or, in some cases, the company itself.

Q. Do I understand you to say then that local openings has reference to both company on a plant basis openings, and union openings on a single plant or operation basis?

A. Yes, they are both commonly referred to in that manner.

Q. Can you define for me the term company openings and you might relate them as to the 1961 or 1962 openings by way of illustration, if you can.

A. Well, generally speaking, the reference to company is a matter of speaking.

Q. What do you mean?

A. Most generally the opening notices are sent by the branch managers who sign the individual contracts with the individual local union.

Q. That is—

A. (Continuing) —and, of course, it is under the name of a [Tr. 1433] company, whatever the company may be, Weyerhaeuser, Rayonier, or any other you might designate.

Q. Do you have reference to a local company opening when you say that, or—I am asking you now—you have talked about a local opening, how is this distinguished from a company opening?

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A. I don't believe I can recall any company-wide openings as such, because I don't believe we have any company-wide contracts within the IWA.

Q. (By Mr. Byrholdt) What are the industry-wide openings, if there are such?

A. Industry-wide? You are now speaking from the company industry-wide openings or the union industry-wide openings?

Q. Well, define them both, if you will.

A. Well, industry-wide openings are from the union's viewpoint that are selected through the process of our union that normally applied to the industry generally or a large

segment of the industry and is selected as a point in which our Regional Council will negotiate for our local unions upon specific receipt of their authority.

From the employer's viewpoint—

[Tr. 1434] Q. (Interrupting) Let me ask you a further question, if I may, about the industry-wide issue as it relates to the union.

How are these issues formulated? When I use the word issue, I suppose I should be saying opening.

A. Well, in our union the process is that and part of these are constitutional requirements [Tr. 1435] that I send out a notice to all of our affiliated local unions on or about December 1 prior to the year in which the contracts are subject to be opened by the local unions, merely reminding them that the time is before us when a decision must be made as to what we wish to negotiate for in the coming years of negotiations. Each local union who so desires then sends to our Regional Council written notices setting forth the items in which they wish to open the contracts on and enter negotiations. They must have that done by February 15, shortly after our negotiating committee and our regional executive board meets and considers all of the various openings received from the local unions. Out of those suggested openings the executive board recommends certain items and rejects others and places that recommendation then to our Regional Convention comprised of delegates from all of the local unions. If the recommendation consists of more than one item the convention must act on it seriatim and what is finally adopted there is the negotiating program in which the regional negotiating committee is authorized to negotiate for. We then, send that information along with a form opening notice to each of the local unions for their use if they so choose. They may or may not authorize the Regional Council to represent them. If they do authorize the regional counsel to represent them, it must be on the points selected through the processes which I have enumerated. Upon receiving that authorization, we then start [Tr. 1436] arranging meetings with whoever we have the authority to meet.

Q. It is the local union which designates the region as its bargaining representative, isn't it?

A. That is correct.

Q. And who is it that opens these local contracts for bargaining?

A. The local union insofar as the union opening. The local union may also open on additional items and that is what commonly gets referred to as local union openings and reserve those items for their bargaining with the individual employer.

Q. May a company do the same thing?

A. The company may do the same thing and at times does the same thing.

Q. How is it done by the company?

A. Well, of course, I have no knowledge of how they select their items. They notify the local union——

Q. (Interrupting) Who is "they"?

A. The company branch manager in most instances. Sometimes it is a company personnel individual who will serve more than one notice in behalf of each of its branches. Through that process they will notify the local union of the parts of the contract in which they seek revisions on or new ones, whichever the case may be. They, sometimes in the same letter, will designate someone else who will represent them and many times they will also serve notice that the designation will be made [Tr. 1437] at a later date.

Q. You are referring now to local company openings?

A. To local company openings. They, at the same time, may and do reserve certain items within the notice in which they will reserve for local company negotiations and which they will not delegate authority to any one.

Q. Are all of the IWA contracts in Region III on a separate plant, separate operation basis?

A. Yes, they are.

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[Tr. 1438] Q. (By Mr. Byrholdt) Mr. Nelson, I will show you the list of the exhibits that I have just introduced here. They are broken down by company Weyerhaeuser, Rayonier, International Paper, St. Regis, United States Plywood. Were those contracts and opening furnished pursuant to my request and as a result of your direction to your staff at the region?

A. Yes, they were.

Q. And they are copies, photostatic copies, of the contracts and openers in the Region II office, are they not?

A. That is correct.

Q. And these are the contracts that were opened in 1963 immediately preceding agreements between the parties, are they not?

A. They are.

[Tr. 1439] Q. And the files contain both the local and the company openings made timely prior to the Mill B date in the contract, is that true?

A. Yes.

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Q. (By Mr. Byrholdt) When I say Mill B, I mean the 60 day reopener.

A. That is as I understood it.

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Q. (By Mr. Byrholdt) Am I correct? I don't want to speak what is contained in the file.

A. I would have to look at each individual one but there was no change in the contracts in 1962. The last change we negotiated was in 1961.

Q. I see.

A. There may be possibly one dated merely by bringing it up to date that may carry a '62 date, but that would be it.

Q. But that would be made pursuant to the '61 settlement between [Tr. 1440] the parties?

A. For the term of '61 to '63.

Mr. Prael: Am I correct, we haven't inspected that part of the exhibit but I assume in there the contracts referred to were those contracts which were in effect in the spring of 1963, whatever they were, whether they were '61 or '62?

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Q. (By Mr. Byrholdt) Mr. Nelson, you testified that the Region, as I understand it, carries out certain negotiations for its constituent local unions, is that correct?

A. Yes.

Q. Where does the authority to negotiate come to the Region from?

A. It comes from the local union.

Q. And in what manner is this authority given?

A. It is given in a form that is prepared in our office and submitted to the local union carrying with it the items for which it has been selected for negotiation. The local union signs it if they desire, sends notice, copies of it to their respective employers and copies to the regional council.

Q. Do I understand you to say you only have such authority as is delegated by the local to represent them?

A. Yes, that is what I am saying.

Q. I will show you, sir, what has been marked, and as I understand it now received in evidence with certain rights to check them, I show you General Counsel's 2-C. Will you tell [Tr. 1441] me what that is?

A. Yes, that is a copy of an opening notice addressed to the Weyerhaeuser Company by Local 3-1 IWA.

Q. And you say that is the local's opening?

A. That is correct.

Q. Does it contain anything more than their opening?

A. Yes. It is their opening notice to the, in this case, the Weyerhaeuser Division at Chehalis, Washington. It serves notice to the company that the local is authorizing the regional council negotiating committee to represent the local. It serves notice that the local union is reserving for itself any items which are not listed on the notice and also reserving and advising that any agreement reached can only be reached after a referendum vote of the membership involved.

Q. Now, I will direct your attention again to General Counsel's Exhibit 2-C, the second indented paragraph. Are those the items on which the local has delegated the region authority to bargain?

A. That was the case of this local union and Weyerhaeuser Company and it was uniform throughout 1963 with one exception.

Q. When you say uniform, are you talking about as to all locals with whom the IWA had contracts in the northwest?

A. I am talking about all locals who delegated their authority to the IWA.

Q. To the region?

[Tr. 1442] A. To the region.

Q. This was the general form of delegations to the region in 1963?

A. Yes. The first three items were universal. The second item referring to pension plan revisions only pertained to those locals having contracts with Weyerhaeuser Company and those local unions having contracts with St. Regis Paper Company.

Q. Mr. Nelson, directing your attention to the year 1963, you were present in the courtroom and heard testimony with regard to a conversation you may have had with Mr. Wyatt. Did you have a meeting with him on February 18, 1963, and will you tell us where and when it took place and who was present?

A. Yes, I had a meeting with Mr. Wyatt on February 18, 1963.

Q. How did you come to have the meeting with him on that date?

A. Well, he or his office called my office. I was busy the day the phone call came in so my secretary advised me that either Mr. Wyatt or his secretary was on the phone and wanted to know if I could meet Mr. Wyatt that day. I told her to advise the party that I had a doctor's appointment at 3:30 that afternoon at Loyd Center in Portland and if Mr. Wyatt wanted to be at the Sheraton Hotel at approximately 4:30, I would meet him. He was there and we met.

Q. Where did you meet?

A. We met in the Sheraton Hotel. I believe we met at a table in the restaurant. If not, it was a table sitting out on the [Tr. 1443] side of the lobby.

Q. Was there anyone else present with Mr. Wyatt or yourself?

A. No, there wasn't.

Q. And what was the substance of the conversation, if you will, will you tell me what Mr. Wyatt stated to you and you to him?

A. Well, Mr. Wyatt advised me that he had been giving some thought to the possibility and advisability of getting some other companies in the northwest lumber industry to join with his company and form a new association in the

lumber industry and went on to explain that he felt that due to the vast changes taking place in the industry that it was time that some new looks be taken and made with particular reference to the larger company having integrated operations, that he felt that if such companies banded together that they could best discuss such items as hours of labor in order to possibly negotiate to where by the new machinery and new equipment could work longer hours or more days a week without the penalty of overtime payment. I inquired of him as to if he was free to tell me as to what type of companies he was thinking of. He named several companies including his own, Simpson Timber Company, International Paper, U. S. Plywood, Rayonier and several others. I asked him if he had also given consideration to Georgia-Pacific Corporation and he said he had and that there had been no discussion with them up to that date. He also advised me that in the event that it was possible for such a group to be formed that there may [Tr. 1444] be certain items which they would wish to reserve for local company negotiations and expressed his views that he doubted if George Weyerhaeuser would be willing to inject or insert the union security provision into general group bargaining and also questioned the wisdom of pensions becoming a part of general bargainings at least in the initial stages were such a group or association formed. He advised me that he respected my views and opinions and wanted to obtain them prior to the time of meeting any further with any company representatives in order that he might have them and have some indication as to what our union's feeling may be. As I recall, the meeting concluded with a statement from Mr. Wyatt asking that for the time being would I keep the names of the companies which he had referred to in confidence, that some of them had not been consulted up to that time or talked to in any manner. He was not sure whether there was enough interest in the industry for anything to be accomplished or not, but after receiving my views he would discuss it further with, not only friends of his own company, but those of other companies and that I would hear from him at some future date.

Q. What if anything, sir, did you have to say to Mr. Wyatt in response?

A. I told him that I saw nothing basically wrong or unsound with the comments he had made or the ideas which he had expressed. As the lumber industry had developed and changed, [Tr. 1445] that certainly it could develop to be beneficial to all who were the major companies and corporations within the industry to get together on general negotiations.

Q. Was that the entire conversation to the best of your recollection, Mr. Nelson?

A. I don't recall anything else at the moment.

Q. You mentioned the term integrated companies. So I understand you, what do you mean by that terminology?

A. Well, without going into past history, there are not too many years distant, there were operations that were principally logging operations. There were other companies which were principally sawmill companies. There were others who were principally plywood companies. Today a company is an integrated operation. They log. They saw into lumber. They produce wood. They produce hardboard, flakeboard and many other by-products that are developed from wood. There is virtually nothing, as I refer to an integrated company—the company does all of the work necessary to create a finished product where as a few years back they used to do only parts of it. A lot of it went in the burner.

Q. Did you thereafter have any occasion to talk with Mr. Wyatt again about the matter that was raised on February 18, Mr. Nelson?

A. Yes. I think the first time I talked to Mr. Wyatt following the February 18 meeting about the subject matter of forming [Tr. 1446] a new association was on the telephone on April 12.

Q. April 12, 1963?

A. Yes.

Q. Where were you when that conversation took place?

A. I was in my office.

Q. This was your regional office in Portland, Oregon?

A. Yes.

Q. About what time did Mr. Wyatt call you?

A. He called me twice that day. He called me once in the forenoon about 11 o'clock and he called me once about the middle of the afternoon.

Q. I see. Let's take those conversations in order. Can you tell us what Mr. Wyatt told you on the morning of April 12, 1963, when he telephoned?

A. Well, the first phone call was in response to an inquiry I had made of him of agreeing and establishing an opening date to commence negotiations for 1963. I had as a result of the earlier phone conversation sent Mr. Wyatt a notice advising him that we desired to meet in Portland, Oregon, on April 17 and 18 as Weyerhaeuser Company. His morning call of April 12 was to advise me that he had a business trip to make to California along with a partial pleasure trip and that for those reasons and others that he would like to have an agreement to change the 17 and 18 dates of May to May 24, 25 and 26 or, I am sorry, I mean April 24, 25, and 26. I agreed to [Tr. 1447] this and with the understanding from Mr. Wyatt and with this statement that they were having a meeting that afternoon with some of the various company representatives to discuss further the matter of a new association, he did not know what his outcome would be and he would also like to have the further agreement that in the event that it was agreed to create such a new association, were I agreeable to then using the April 24, 25, and 26 dates as meeting dates for the new association, rather than for Weyerhaeuser Company itself. I so agreed.

Q. Was that all of your telephone conversation with Mr. Wyatt at that morning?

A. I believe it was.

Q. (By Mr. Byrholdt) Mr. Nelson, in connection with your testimony of meeting dates with Weyerhaeuser Company, I will show you an exhibit marked General Counsel's No. 69, dated April 10, 1963, from yourself to Mr. Wyatt and another Exhibit 70 bearing the same date also addressed to the Weyerhaeuser Company, though it is not specifically indicated thereon that it was to Mr. Wyatt's attention. Are these the meeting dates and the movements thereof that you had reference to in your [Tr. 1448] prior testimony?

A. Yes, they are.

[Tr. 1449] Q. (By Mr. Byrholdt) Mr. Nelson, immediately prior to the recess just now, I think you were addressing yourself to a conversation you had with Mr. Wyatt over the telephone the morning of April 12, 1963. Have you concluded your testimony as to that conversation?

A. Yes, I have.

Q. I think you mentioned that you spoke with him again on the telephone that same date, is that true?

A. Yes, he called me later in the afternoon.

Q. Would you tell us what he said to you and what you may have said to him—strike may—what you did say to him?

A. He told me that they had just concluded the employer group meeting. They were still undecided as to whether or not they were going to be able to put together the type of association which he had been talking to me about, that there were six companies present and five of the six were willing to form such a group. There was a sixth one which was still undecided. I asked him at that time if he was free to tell me the names. He said he was and named the six companies and I asked him which one—

Q. (Interrupting) Would you tell us what six companies he names?

A. Yes, he named Weyerhaeuser Company, International Paper Company, St. Regis Paper Company, Rayonier, Crown Zellerbach [Tr. 1450] Corporation, and the sixth one, as the undecided one, U. S. Plywood.

He said as a result of the discussion the five were undetermined at that moment whether they would go ahead in the event there was only five, but it was still under consideration as we would hear from them later. I thanked him for the information and again we double-checked our schedules for the commencing of Weyerhaeuser negotiations for commencing on April 24 and again agreed that in the event that an association was formed we would meet commencing the 24th with the Association.

That concluded the discussion.

Q. When, if you recall, did you next hear anything further about the formation of any employer bargaining group?

A. When I started receiving letters or copies of letters, and I am sure there was some of both addressed to me, advising the local unions and in some cases the Regional

Council, that individual companies were granting authorities to bargain on certain items and certain reservations, to an association, listing the names of six companies which I just named and advising that their Mr. Boddy would be the Secretary of the newly-formed association. As I recall, they also said any further communication should be directed to him.

Q. If you will pause just—

A. (Continuing) This was about April 19, 20, 21, and 22, and [Tr. 1451] I think the letters for the most part were written as I recall, on April 17 or 18, some were not received in my office until as late as the 22nd.

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Q. (By Mr. Byrholdt) Including No. 205, are those the letters you had reference to that you received commencing on or after April 17 through 23 or 24, 1963?

A. Yes, they are.

Q. Do you know whether or not each of the six companies sent similar letters to each of the local unions having contracts [Tr. 1452] between themselves and the IWA?

A. I know that they did not in all instances.

Q. Can you tell me who or which of the companies did not send copies of that letter to their local unions?

A. U. S. Plywood Corporation.

Q. Do you have any knowledge as to whether the other five companies sent copies of the letters in evidence here similar in form to their local unions?

A. Yes, to the best of my knowledge they did.

Q. Mr. Nelson, following receipt of the letters we just referred to, what, if any, arrangements were made with regard to meeting with these companies?

A. We merely went ahead and went to the meeting place that I previously testified to on the morning of April 24 that was initially scheduled for the Weyerhaeuser Company.

Q. That was pursuant to a prior arrangement with Mr. Wyatt?

A. Yes, it was.

Q. If you will, sir, I will call your attention to April 24, 1963. Can you tell me where and when you met with the representatives of those six companies?

A. Yes, we met in the Masonic Temple in Portland, Oregon, about 10 o'clock in the morning, and I believe in the Corinthian Room.

Q. Can you tell us without running through all of the names of the parties, generally who was present there for the com- [Tr. 1453] panies?

A. Well, there were representatives of each of the six companies. Mr. Wyatt introduced his group. He announced he was chairman of the new committee and Mr. Boddy was the secretary. I believe Mr. Doherty of U. S. Plywood was announced as one of the negotiators. Mr. Greeley of International Paper, Mr. Roberts of St. Regis, and he also had sitting beside him Scott somebody.

Q. From what company?

A. From St. Regis Paper Company.

From Rayonier, the first morning, as I recall, was Mr. Lewis and Mr. Bradshaw. In the seats immediately behind sat some of the top officials of each one of the six companies. I recall Mr. Hallin of Crown Zellerbach, Mr. Forrest of Rayonier, and I believe Mr. Jon Titcomb of Weyerhaeuser.

Q. Was Mr. Boddy on that negotiating committee?

A. Mr. Boddy was on the negotiation committee for Crown Zellerbach and Mr. Wyatt for Weyerhaeuser.

Q. Who was representing the IWA?

A. I was there as the spokesman of the committee, Mr. James Fadling, Mr. Gunvaldson, Mr. Aaron, and Mr. Demico.

Q. I take it they were introduced then at this meeting?

A. Yes, we exchanged introductions. I might say there were other union representatives present, but they were not a part of the negotiations.

[Tr. 1454] Q. Did Mr. Wyatt make any introduction of the other persons in the room other than the negotiating committee?

A. Yes, Mr. Wyatt introduced each one of the principals of each company, each of the six companies. In doing so he announced that they were there to provide any answers on behalf of their company that the negotiating committee may need, and at that point that was his statement.

Q. Now, following the introductions, can you tell us what took place at that meeting?

A. Mr. Wyatt opened the meeting by referring to the letters which I have just referred to and I don't recall the exact numbers, I am referring to subject matters of them.

Q. R-205 would be a representative sample of those six letters you are referring to?

A. Yes, to give a brief explanation of the formation of the new association.

Q. Can you tell us what he said?

A. He said that the six companies had banded together into an association which was yet unnamed. It was so new that they didn't have time to put a name on it. They hoped to sometime in the future. They were, all of the six companies were there, and were prepared to negotiate with us on those subject matters which they had previously been authorized by the separate companies, and on those matters were prepared to reach with us a binding agreement. Those subject matters, which they had [Tr. 1455] authority to negotiate on that those matters would not be negotiated elsewhere.

Q. Did that conclude his general opening statement or do you recall more?

A. He also advised at that time that the gentlemen I referred to as sitting in the chairs immediately behind the negotiating committee——

Q. (Interrupting) These were the principals, now?

A. Yes.

(Continuing)—were there to give them any assistance they needed and to finalize and execute an agreement on behalf of each one of the companies that may be reached. Upon receiving the information, I immediately inquired of Mr. Wyatt, "Are you saying if this union committee was to reach an agreement with you on the subject matter of hours of labor that that would foreclose any negotiations as it affects U. S. Plywood at any other level?" He responded and asked for some explanation. I went into some explanation explaining that there were various and numerous openings by the U. S. Plywood Corporation all dealing with the subject matter of hours of labor. Our union committee did not intend to be found in a position as we were in 1961 in negotiating with T.O.C., as employers pulled out of negotiating or trying to negotiate at different levels at the same time, or at separate times. I would like to have

his answer clearly defined in view of the [Tr. 1456] openings which I had before me relating to the U. S. Plywood Corporation hours of labor. He advised me that he was not familiar with all those openings and would need a little time to review them, and he suggested a caucus.

I told him that I thought it was timely but there was one other matter that we also wanted cleared up and that was the matter of St. Regis Paper Company openings. The St. Regis Paper Company had served notice upon all their local unions to open the entire working agreements. I wasn't sure that I understood the purpose of the opening and we too wanted that clarified in line with his statement of position of the authority of the Association.

After some discussion in respect to those openings we did recess for the employer group to caucus.

Q. When you say you recessed, you terminated the meeting that day?

A. No, the employers caucused and returned sometime later and said they had not had time and were not able at that time to give an answer relative to the U. S. Plywood hours of labor openings but they would give it further study over the evening and would talk about it the following day.

They advised that St. Regis was considering their openings and that St. Regis was to give us a direct reply. Upon receiving that information, still time in the day left, one of us suggested that we go ahead and briefly explain the opening [Tr. 1457] subject matters which we were authorized to talk about. As I recall, I believe I explained the subject matters contained in the union's openings and which we had been delegated authority.

Mr. Wyatt briefly explained the subject matters in the company openings which they had been delegated authority for and with a few questions of clarification I asked Mr. Wyatt if they were agreeable to give to us in writing at least an outline of their position on those subjects which they were saying they had the authority to bargain for on at these sessions.

This they agreed to do and we recessed until the following morning.

Q. Now, Mr. Nelson, how long did this meeting last on April 24, 1963?

A. As I recall, we recessed something like around 4 or 4:30 in the evening.

Q. What time had you commenced the hearing in the morning?

A. We commenced, I believe, at 10 o'clock in the morning and we took some hour and a half or two hours for lunch, possibly.

Q. How much of the time was spent upon a discussion of the Association's authority?

A. Oh, practically all of it.

[Tr. 145S] Q. Now, following the meeting on April 24, there has been considerable testimony here about their attending another meeting on April 25, 1963 between the IWA and this group of employers, is that correct?

A. Yes, there was.

Q. Would you tell us again where it took place and about what time it commenced and generally who was present at that meeting?

A. Well, the meeting took place in the Masonic Temple again. I think that we reconvened about 9:30 a.m. but the people present as far as the principals, the negotiating committee and the principals of the companies, they were essentially the same. I cannot say for memory that they were exactly the same. There were various others, both union and company representatives in the meetings from time to time. Many of them I knew, of course, but there were those I did not know by personal acquaintance. There also was the two negotiating committees which I have referred to and other representatives of each one of the companies and then we generally had from one to fifteen or twenty interested union visitors attending the sessions.

Q. Now, would you tell us as best as you recall what took place in the meeting of April 25, 1963 and if you can, who said what to who.

A. Well, again the meeting opened by Mr. Wyatt commenting with relationship to the U. S. Plywood hours of labor opening as we had agreed the previous day when we recessed that they [Tr. 1459] were going to give the matter further consideration. He again advised that they had not come up with the solution up to that time. He apologized on behalf of all of them for the confusion existing again stating that it was only there because of the newness of the Asso-

ciation and assured us that if there was future negotiations in this capacity that it would not reoccur, that these things would not happen. I again, after he had made his comments, reviewed the union's position that we were insistent that the subject matters in line with his statement of the previous day that all of the negotiations on a single subject matter be conducted at one single place, that we were not agreeable or willing to negotiate the same subject at a half a dozen different places or more and that there must be an answer found.

Following that discussion, Mr. Wyatt in line with our agreement of the previous day handed to me a written statement outlining the employer's position in respect to the general hours of labor opening, the matter of overtime, concerted refusal to work overtime and their explanation of what they meant by the opening referring to grievance procedure. We had some general discussions relative to those subjects and also some rather brief discussions and question again in regards to the subjects opened by the local unions.

At this time I would also like to add, if I might—if I could go back to the April 24 meeting momentarily, because of [Tr. 1460] the subjects which were interwoven or left over as part of the 1961 and '62 negotiations, we had an understanding and—I mean an agreement with T.O.C. as an example, whereby committees could be established to study and work out uniform contract language, to work on uniform health and welfare structures—Weyerhaeuser Agency Shop which has been testified to here was agreed to in 1962 if my memory is serving me right—that we wanted to have from the employers again were an agreement to be reached; would that agreement foreclose the continuation of the work on these subjects pursuant to the previous agreement.

Q. Are you saying that that was part of the 1961 contract; this agreement to set up these committees you are referring to?

A. Yes, and it was agreed that any agreement reached would not foreclose the continuation of the work necessary to complete those agreements.

Q. That refers to what now?

A. That refers to uniform contract studies and work by committees between T.O.C. and I.W.A., uniform health and welfare studies between T.O.C. and I.W.A. and uniform contract studies between St. Regis and IWA and U. S. Plywood and IWA and Weyerhaeuser and IWA all who had negotiated in 1961 as separate bargaining groups.

Q. Do I understand you that these study provisions are incorporated into the separate local union contracts?

A. Well, if they are not incorporated, they are signed by the [Tr. 1461] separate company and by the separate local union as a supplement.

Q. Made a part of the contract?

A. Yes.

Q. Do you have anything further with regard to this that you wish to add?

A. No, I believe that concludes it. This is the 25th meeting?

Q. Yes.

Now, returning to—I think you were testifying with regard to the meeting of the 25th. There was some discussion, was there not, of the group opening?

A. After we had briefly explained the—we again went over the openings between the union and the companies. There was a caucus or two and I am not sure who asked for the caucuses at this point. During one of the caucuses or the noon recess, I had a short personal conversation with Mr. Wyatt at which time Mr. Wyatt expressed to me a hope—

Q. (Interrupting) Where did this take place sir?

A. In the anteroom which—that is my definition, anteroom, a little room along side of the meeting room where the negotiating committees were meeting—and a desire that they would find a solution to the problem of authority that related specifically to U. S. Plywood and their hours of labor. He expressed views to me that he was having troubles within his own group because of it and that he didn't know whether U.S. Plywood was going to [Tr. 1462] stay in or get out, that he was in serious hopes that we would be able to somehow find a way to go along with them for this year, meaning 1963, and that if they maintained themselves as an Association that he would give me his personal assurance it would not reoccur.

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Q. (By Mr. Byrholdt) Who was present if anyone, other than you and Mr. Wyatt at that conversation?

A. There wasn't anyone else present that I know of.

Q. What, if anything transpired further that day? I think you testified this was in or about the noon recess, was it, this conversation?

A. As I recall, it was. It may have been sometime later but my recollection is we did not go to late that afternoon. As the committees resumed meetings we again talked about the problem of authority which I have previously talked about relating to U. S. Plywood specifically and again agreed to recess to the following morning and that we would both give further thought and study to the problem, meaning hours of labor authority problem.

Q. That is all that took place at that meeting, Mr. Nelson?

A. That is all I recall.

Q. Now, sir, there has been some discussion here both by you and previously by Mr. Wyatt as to the term, hours of labor. I wish, if you could, you would explain the meaning of that term.

[Tr. 1463] A. Well, as we refer to hours of labor, it is the clause in the contract that sets forth what the work week consists of, what the work schedule consists of and they are different. The general wording is that the work week starts on Monday and ends on Sunday and the work schedule starts on Monday and ends on Friday with certain exceptions and also sets out that work other than that provided for in the regular work schedule will be penalty time or if worked, to be paid for at time and a half rate. That is what we are referring to when we are talking about hours of labor.

Q. I think you have testified that the group represented by Mr. Wyatt made such a proposal—made a proposal on hours of labor at this meeting, is that correct?

A. Yes, they did.

Q. Can you tell me the substance of that proposal?

A. As I recall, it contained two substances. One: It contained a substance which would have added more classifications to the exception group and primarily maintenance people which could work a different work week than Monday through Friday without the requirement of overtime pay. Secondly: That a provision which would permit a com-

pany to operate a plant or a portion of a plant on a seven-day, three-shift operation without any regard being given to any specific days of the week being penalty days or overtime days of work.

[Tr. 1464] In addition to that, U. S. Plywood wanted all kinds of changes depending upon what operations and what local union you might be talking about in the hours of labor.

Q. And hours of labor refers to any changes, do I understand you correctly, in the basic work week formula?

A. Yes.

Q. (By Mr. Byrholdt) It consists of a letter from yourself of April 29 with an attachment which appears to be the employer proposal of April 25, 1963. Will you tell me when and how that proposal was made?

A. Yes, sir. That is the proposal that I have just testified to that was handed to me by Mr. Wyatt during our meeting of April 25.

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Q. (By Mr. Byrholdt) Mr. Nelson, just before I showed you the written employer proposal of April 25, I think you were testifying as to the hours of labor situation as it existed [Tr. 1465] at U. S. Plywood. Could you sir, explain further with regard to the situation that existed in U. S. Plywood Locals with regard to hours of labor; I am referring to those locals represented by the IWA?

A. Well, I can to some memory. Specifically, to local 140 at Reedsport, Oregon, who has two contracts with U. S. Plywood Corporation. One covering a sawmill and part of a plywood plant and one covering a logging camp at separate locations a few miles apart. It so happens that the hours of labor in those two contracts are the only two contracts to my knowledge that IWA has with U. S. Plywood which provides for premium pay for Saturday and Sunday as such, if those are the only days worked. That is a standard provision throughout IWA contracts with most every company in the Pacific Northwest and it became standard as a result of a War Labor Board directive in 1942.

In the case of these two contracts, U. S. Plywood had opened specifically asking for the hours of labor to be

amended to permit them to work all employees without regard to any specific days being overtime days. In other words, to where they could schedule a work schedule beginning on any day of the work week with no relationship to seven-day, three-shifts.

It was our position then and still is, that had we agreed to the proposal which was submitted to us on April 25, we would have still been faced with the problem of going down to Reedsport and negotiating with U.S. Plywood to see whether or not they [Tr. 1466] could get us to agree to further amend the then existing hours of labor and we were unwilling to do so under any considerations.

Q. Now, Mr. Nelson, give us the approximate times of the meeting of April 25, if you can recall.

A. I think it was between three and four o'clock but I am not certain.

Q. You usually commenced at 10 in the morning?

A. Generally, yes.

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[Tr. 1470] Q. (By Mr. Byrholdt) Mr. Nelson, yesterday at the close of the hearing, I think we concluded with your testimony about what had taken place in the meeting of April 25, 1963, between the IWA and the six companies. Now, directing you once again [Tr. 1471] to that meeting of April 25, will you tell us broadly the time that was spent in that meeting and what portions were spent in discussing the negotiating authority relative to hours of labor?

A. I would say the majority of the time we were in session was spent on that general subject matter.

Q. Can you tell me approximately how long the meeting lasted, when it commenced, and you might indicate whether there was a break for lunch and how long it was, and when the meeting ended?

A. I believe I testified yesterday that the meeting started something like 9:30, and it may have been 10. As I recall, it lasted something like around 4 o'clock. I have no recollection of the time, really, that we was out for lunch, except the general pattern that we normally followed, we took an hour and a half to two hours.

Q. I see. Now, sir, have you told us everything you can recall that took place at the meeting of April 25?

A. I believe I have.

Q. I will direct you to the next meeting between the six companies and the IWA. Can you tell me when that took place?

A. You mean the time of day?

Q. What day, and approximately the time.

A. The next meeting was on the 26th.

Q. This was of April 1963?

[Tr. 1472] A. Yes.

Q. Were the same parties generally present that you testified as having been present during the preceding two meetings?

A. Yes, they were.

Q. And approximately when did that meeting commence, generally, as you recall, and about when did it end?

A. I am thinking a moment. There was one of these three meetings that started in the afternoon and I am not right sure whether it was the 26th meeting or the 24th meeting, which I testified to yesterday. I believe this meeting of the 26th started at 10 o'clock in the morning and if that is correct then the meeting of the 24th would have been the one that started at 2. One of the three was at 2 o'clock.

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Q. (By Mr. Byrholdt) Mr. Nelson, can you tell us who opened the discussion on hours of labor, if there was one at this meeting?

A. Yes, Mr. Wyatt opened the discussion of hours of labor on the 26th.

[Tr. 1473] Q. Was this at the outset of the meeting?

A. There was at the outset of the meeting this discussion pursuant to the understanding we recessed on the evening of the 25th.

Q. Will you tell me, as best you can recall, what Mr. Wyatt had to say at that time?

A. Mr. Wyatt expressed his disappointment again that we had not been able to come to an understanding on

the subject of hours of labor, or up to that time, and he expressed the desire of the Association to reach such an understanding and said that after considering the matter among themselves that they had a proposal or suggestion to make to us.

He then outlined a proposal suggesting that we agree with them to bring all of the U. S. Plywood local company hours of labor openings into those negotiations and all of the local union's openings into those negotiations. I explained that our committee did not have the authority for local union openings which was reserved by the local union, that he and the rest of his committee was well aware of it as it was set forth in the local union's openings, the notices to each employer, and had been set forth in the same manner over a period of years. Our committee was in no position to consider or to agree to such a proposal.

After some further discussion I did tell Mr. Wyatt that we would take the matter of the hours of labor under consideration [Tr. 1474] during caucus and suggested before we did however that maybe we could again briefly review the other subject matters before the committees. This was satisfactory. We did review the other subject matters.

Q. Generally, what were these other subject matters?

A. The other subject matters were the union request for travel time pay for loggers; for a general wage increase; for a three-year agreement; for a committee to work with the problems resulting from automation; and for something to be done for the skilled classification in the form of wage adjustment, beyond a general wage increase.

Q. Does that latter matter refer to a so-called bracket increase?

A. Yes.

(Continuing) On the employers' items were, of course, those items which was contained in their proposal to us of the previous day.

Q. Now, sir, briefly going back to Mr. Wyatt's opening proposal on how the local U. S. Plywood Company openings on hours of labor would be handled, can you explain

to me or this court mechanically how his proposal would have worked as you understood it?

A. Well, as I understood it—

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[Tr. 1475] Q. (By Mr. Byrholdt) Would you tell us what Mr. Wyatt said about the openings of hours of labor or how they would be handled as to the U. S. Plywood Company, again on the 26th?

A. Well, again Mr. Wyatt proposed that we join with them in agreeing that we bring all of the hours of labor openings before our respective committees, including each of the U. S. Plywood local branches' openings and any local union openings pertaining to the hours of labor, and that they be negotiated by [Tr. 1476] our committees and to apply to that branch or that local union which had made the opening.

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Q. (By Mr. Byrholdt) All right, sir, following Mr. Wyatt's proposal, if you have completed his suggestion as to how the hours of labor issue should be bargained for the local U. S. Plywood openings, what took place next?

A. As I previously said, I advised Mr. Wyatt that the union, in spite of my statements to him about not having the authority [Tr. 1477] from the local unions, that because of the seriousness of the problem we would give it consideration and a caucus of ourselves and suggested that we talk about the other subject matters briefly before we did caucus. We did this and then caucused, and this may have been during the noon recess, and this refreshed my memory that this 26th meeting did start at 10 o'clock in the morning.

Following the caucus, I officially, in the name of our committee, rejected Mr. Wyatt's proposal, and in doing so made them a proposal. The proposal was again emphasizing that we did not have and could not have under our rules and by-laws of the organization the authority to bargain on those subjects which had been reserved by the local union for them and them only, but that we would propose that we arrange for a separate meeting room and

that we would ask each one of the local union representatives having U. S. Plywood operation to come in. If they would ask each one of the branches of U. S. Plywood to likewise have a representative and if desirable that we would assign someone in the name of the Region to sit in with them if they wanted somebody from their group to sit in and let them negotiate on the local employer and local union openings, and if they were able to reach an agreement on those matters and report back to these committees that maybe we could then proceed to discuss the hours of labor as was then before us in general terms with U. S. Plywood.

[Tr. 1478] Again after some discussion, and probably an employer caucus, our proposal was rejected. It was rejected in any event either before or after a caucus and after the rejection, Mr. Wyatt again repropose that we agree to—let me back up a minute. In making the rejection of the union proposal we were advised that U. S. Plywood was unwilling to bring their branch managers in to such negotiations that we had proposed. He then proposed again that we agree to bring all of the local employer openings and local union openings pertaining to U. S. Plywood before our joint committees. I again advised him that we did not have that authority and we were not able to get it, even if we wanted it we could not get it.

After some brief discussions, pro and con, it was at that time we was apparently stalemated. I suggested that maybe we should go on and talk and discuss the other subject matters, leaving this problem of U. S. Plywood authority on hours of labor unresolved and maybe in discussing the other matters it might, such discussion might find a way for this hours of labor problem to be resolved. This was acceptable by Mr. Wyatt and from there we did proceed then to enter into what I term serious discussions in relationship to the other subjects.

Again, it was briefly, inasmuch as it was getting late in the afternoon, and as I recall, we then recessed to April 29.

Q. Well, sir, at that time the union made its proposal on hours of labor, or counter-proposal on how the local union ques- [Tr. 1479] tion of hours of labor were to be

handled, did any representative of U. S. Plywood address himself to that question?

A. Not that I recall. I believe not.

Q. Now, have you covered the proposals of the six companies and the union as to the handling of the U. S. Plywood hours of labor question, the local openings by U. S. Plywood?

A. Yes, I believe I have, to the best of my recollection.

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[Tr. 1480] Q. (By Mr. Byrholdt) Mr. Nelson, have you related all the discussion that was had relative to hours of labor on April 26, 1963, that you can recall?

A. Yes, I have.

Q. I will ask you, sir, did anyone on behalf of the employers [Tr. 1481] withdraw the local company openings on hours of labor by United States Plywood Company?

A. No, they did not.

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Q. (By Mr. Byrholdt) Would you explain that, sir?

A. U. S. Plywood had different locations, different branches of the company, which opened the hours of labor in different respects at different branches. At no time was it proposed [Tr. 1482] to us that there be a uniform negotiations or a uniform proposed agreement on all of U. S. Plywood hours of labor, or applicable to all branches, because all branches were not opened for the same purposes on the hours of labor, so in that respect, if I understand your question, it would have been separate. One branch would have been separate from other branches and thereby separate from the Association's general authority on the hours of labor as it applied to other companies.

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[Tr. 1483] Q. (By Mr. Byrholdt) Mr. Nelson, what was your understanding as to how the U. S. Plywood local company openings were to be bargained pursuant to the proposal of April 26 by Mr. Wyatt?

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A. Well, my understanding was——

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[Tr. 1484] Q. (By Mr. Byrholdt) Apart from the Association openings?

[Tr. 1485] A. Apart from the Association openings.

Q. Now, sir, have you concluded your recollection of the meeting of April 26, 1963, and the discussions and positions taken by the principals there relative to hours of labor?

A. Yes, I have.

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[Tr. 1486] Q. (By Mr. Byrholdt) Mr. Nelson, following the meeting of April 26, was the question of the handling of the U. S. Plywood hours of labor openings at the local plants discussed in the meeting of April 27, or April 29, 1963?

A. I don't recall any April 27 meeting. There was an April 29 meeting.

Q. The next meeting following the 26th was on the 29th, is that right?

A. That is my recollection.

Q. Was the hours of labor issue discussed at that meeting?

A. Not that I recall.

Q. Was it discussed at the——

Mr. Prael (interrupting): April 30 was the next meeting.

Q. (Continuing) —the next meeting on April 30, 1963?

A. I believe not.

Q. And was it discussed at the next meeting on May 27, 1963?

A. I don't recall that.

[Tr. 1487] Q. Was it discussed——

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Q. (By Mr. Byrholdt) Was the question of the U. S. Plywood openings on hours of labor discussed at the next meeting on May 28, 1963?

A. As such, I think not. Hours of labor was certainly discussed.

Q. At all times there was reference to the local U. S. Plywood Company openings on hours of labor and wages?

A. No.

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[Tr. 1488] Q. (By Mr. Byrholdt) Was it discussed at the May 31, 1963, meeting?

A. I don't have any recollection, really, one way or the other.

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Q. (By Mr. Byrholdt) Do you have any recollection of any discussion of the local U. S. Plywood openings of hours of labor at the next meeting on May 31, 1963?

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A. No, I don't think, in fact, I am certain we did not discuss the U. S. Plywood hours of labor local openings at the June 4 meeting.

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[Tr. 1489] Q. (By Mr. Byrholdt) Now, Mr. Nelson, following the meeting on June 4, 1963, do you have any recollection of the U. S. Plywood local company openings on hours of labor having been discussed by you as representative of the IWA and the Association or its representatives?

A. Yes, I do.

Q. And when did that discussion take place, if you recall?

A. I recall two instances, one on June 18.

Q. Referring to June 18, you are referring to June 18, 1963?

A. June 18 of 1963.

[Tr. 1490] Q. Where and when did that discussion take place, and who was present?

A. That is the meeting Mr. Wyatt testified to that was held in Portland, Oregon, in the office of the Federal Mediation Conciliation Service with Mr. George Walker. Mr. Walker, Mr. Wyatt, and I, were present.

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Q. (By Mr. Byrholdt) Without detailing all of the matters that were discussed at that meeting, can you tell me whether or not any discussion was had with regard to the hours of labor issue at that meeting? I refer to it broadly as the companies opened on it, and also as the U. S. Plywood Company had opened locally on it.

A. There was discussion and there was discussion on both the general hours of labor openings and the U. S. Plywood hours of labor openings.

Q. Can you tell us the substance of those conversations, who said what, as best you might recall?

A. Well, during the process of discussing all of the subjects with Mr. Walker, it was he who called the meeting, and the purpose, as he outlined, was to obtain from both sides their positions and to see if the Conciliation Service could be helpful and explain those positions. I told Mr. Walker [Tr. 1491] that the hours of labor was one of the real serious problems insofar as the union was concerned from two different respects. One was that we were, of course, unwilling to agree to the employers' general request on hours of labor and secondly, that we would not negotiate with U. S. Plywood at separate locations on hours of labor or on separate hours of labor openings with them differently at the Association level than what the other five employers were bargaining for on the hours of labor.

Q. Was that all the conversation that you recall on that subject?

A. Mr. Wyatt expressed views in general in regard to the hours of labor, expressing the seriousness as he saw it, the general problem with the industry in line with the industry openings and also again expressed hope that we would be able to find a solution somewhere soon to the U. S. Plywood hours of labor openings.

Q. Referring to what, U. S. Plywood hours of labor openings, if you know?

A. The local branch openings.

Q. Now, sir, following—excuse me.

Was that all of the discussion that was had at that time having to do with hours of labor?

A. Oh, I think I did express and emphasized the position of the IWA that I had been emphasizing throughout, that we would not negotiate this subject matter at more than one level, come [Tr. 1492] what may. Mr. Walker said he understood our position.

Q. Mr. Nelson, have you related all of the discussions as you recall it, now?

A. In relationship to this subject? There were considerable other discussions.

Q. This general subject before the parties?

A. Yes. I think we talked about each one of the subjects. I say we, I talked about each one in relationship to the union position. Mr. Wyatt talked about each one in relationship to the employers positions.

Q. Following that meeting, have you exhausted your recollection of what took place there relative to the hours of labor? Was there any further discussion of that subject between the IWA and the six companies?

A. Yes.

Q. And do you recall when the subject matter was next discussed?

A. June 27.

Q. And where did this discussion take place and who was present, if you can recall?

A. This was a negotiating committee meeting of the six companies in the Association and ourselves. The meeting was held in the Masonic Temple. Essentially the same people were present who had been present throughout negotiations. The meeting was called by the—

[Tr. 1493] Q. (Interrupting) When you say present, you are talking for both sides, both the six companies and—

A. (Interrupting) Yes. There were probably some new ones scattered throughout the audience, but the negotiator was the same.

The meeting was called by the Federal Mediation Conciliation Service and Mr. Walker was there.

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Q. (By Mr. Byrholdt) Now, directing your attention to the question of hours of labor, can you tell us what discussions were had on that subject and who said what to whom, as you can recall it?

A. Yes. During the process of the meeting I again expressed the union's position in relationship to the U. S. Plywood local company openings on the hours of labor and after considerable discussion, not only of this matter but others, the employers asked for a caucus. Upon returning from the caucus, Mr. Wyatt stated that Mr. Marshall Leeper of U. S. Plywood had a statement which he wished to make to us.

At that time Mr. Leeper said that U. S. Plywood was willing to go along with the general hours of labor being negotiated by the Association, and his words were "in the black and grey areas", and for the other matters of the hours of labor at the local branches, that his company was ready and willing [Tr. 1494] and he would make the company representatives available at the union's will to meet at the local branch levels and negotiate on any matters, on the hours of labor, which was outside of the black and grey area. I asked him for a brief explanation as to what he meant by black and grey. I thought I knew but I was not sure.

His explanation was that if an agreement was reached with the Association committee and if that agreement paralleled any of the U. S. Plywood's local openings in the black and the grey area, meaning, as he explained it, if it was covering the same general position in relationship to the hours of labor, even if it was close, that U. S. Plywood would accept the Association settlement, were one reached.

For those matters which were outside of those areas, they wanted to negotiate them locally and he would see that his people were available at such times as the union was available.

Q. When you say negotiate them locally, you have reference to hours of labor?

A. Yes, as I understood your question was relating only to the hours of labor.

Q. Did you make any response to this following his explanation or was there any further discussion?

A. Yes. The union rejected the proposal or the idea and again reiterated our position that we would not negotiate the hours of labor at more than one level. As I recall, with that [Tr. 1495] statement, the conciliator injected some comments and we proceeded to go on and talk about some other subject matters.

Q. Was that the entire discussion on hours of labor at that meeting?

A. Yes.

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[Tr. 1496] Q. (By Mr. Byrholdt) Mr. Nelson, I think you completed your testimony as to the discussion of the local U.S. Plywood openings on hours of labor that took place at the June 27 meeting for the conciliators, is that correct?

A. Yes.

Q. Was the question of the local U.S. Plywood openings discussed again at any time after that date?

A. No.

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[Tr. 1497] Q. (By Mr. Bryholdt) Were the U.S. Plywood Company local openings on hours of labor bargained to a conclusion in 1963?

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A. Yes.

Q. (By Mr. Byrholdt) Will you tell us how and by whom and when?

A. It was bargained to a conclusion on August 13.

Q. In what manner?

A. When an agreement was reached settling all negotiations and all openings at all levels.

Q. And how was this done as to the U.S. Plywood local company openings and hour of labor?

A. It was done—

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[Tr. 1498] Trial Examiner: Was there a meeting at that time?

The Witness: There was a meeting of the negotiating committee.

Trial Examiner: You were asked when, where and how was this reached and the how contemplates the organization representing the parties at that time.

The Witness: Well, on August 13, the Association committee brought in a proposal for the first time to the union without any reference to a change in the existing hours of labor in any of the contracts, and that proposal included a proposal to close all contract openings at all levels, this is not the exact words, which were opened in 1963. As the final draft of a settlement agreement was made, our union committee agreed to recommend it to our membership and was later ratified.

Q. (By Mr. Byrholdt) What effect did this have on the U.S. Plywood local openings of hours of labor?

A. That closed them out.

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[Tr. 1499] Q. (By Mr. Bryholdt) Do you mean by that the issue was dropped?

A. Yes.

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[Tr. 1500] Q. (By Mr. Byrholdt) Mr. Nelson, there was some earlier testimony in this hearing with regard to a meeting which took place between you and Mr. Wyatt at or on either June 4 or June 5, 1963, do you have any recollection of a meeting with Mr. Wyatt on one of those dates aside from the full meeting that took place between the IWA negotiating committee and the six companies?

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A. Yes, I do.

Q. Can you tell us on what date that meeting took place and who was present and where it took place?

A. Well, first of all, I talked to Mr. Wyatt or he talked to me for a very few minutes, possibly three or four minutes, on the afternoon of the 4.

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Q. (By Mr. Byrholdt) Where did that conversation take place and what was the subject matter discussed?

A. Somewhere in the hallway of the Masonic Temple. He asked me if it was possible for him to meet with me somewhere that afternoon and I advised him it was not, that I had meetings of my own and was tied up, that if he wanted to talk to me, I would make myself available the following morning.

[Tr. 1501] Q. What day would that be?

A. That would be June 5. He said, fine, so we agreed he would be to my office at 10:30 the morning of June 5.

Q. And did you meet with him that day at that time?

A. Yes, I did. It was not at that time. He was a little late but it was about 11 o'clock before I met with him.

Q. And who was present during that meeting?

A. Just Mr. Wyatt and myself.

Q. And where did it take place?

A. It took place in my office.

Q. Can you tell us what was said and by whom?

A. Well, Mr. Wyatt, of course, expressed concern that negotiations had broken down and picket lines were then established at U.S. Plywood operations and St. Regis operations. wanted to know where our bargaining had really broken down and how, what my views and opinion were as to how we might best work out of the situation we found ourselves in, what we might do in the forms of settlement and arrangement or agreements, if I had any views other than those I had expressed across the full bargaining table and we exchanged views, opinions and ideas in that respect.

Q. What did you say to him?

A. I told him that I too regretted that we found ourselves in the situation we did, however, I thought I

had made it clear throughout the negotiations that in order for a settlement to be [Tr. 1502] reached in 1963 without strike action, it was going to take some realistic recognition to the logger's travel time pay, was going to take something more realistic than we had heard up to that time on general wage increases if we were going to accomplish a three-year agreement. There was going to have to be a different position on their request for overtime for the concerted refusal to work overtime than anything we heard expressed. I told him that they were going to have to change their position, taken on the hours of labor, and again included that any agreement reached on the hours of labor would have to be an overall agreement whatever it may be. He asked me if I was free to express to him any future plans which we had and I told him we had no future plans other than to try and negotiate an honorable settlement with him and others within the industry in which our membership would accept. I in turn asked him if he knew of any plans within his group which he was free to relate to me. He said he was not. I asked him if they had any plans for future meetings. He said at that time he did not.

Q. Future meetings with whom, Mr. Nelson?

A. With us, with the committee, with the union. At that point he didn't see where there was any possible solution in view of the position that we had taken and in view of the positions his people were taking. He said that the employer group was having a meeting that afternoon in Portland, I believe, at 1:30 and that he may have something to report further following that [Tr. 1503] meeting. I believe that covers the discussion as I recall it.

Q. Did he mention anything about the six companies locking out at the meeting?

A. No, he did not.

Q. Did he ever at any time prior to that meeting express any such opinion or position?

A. No, sir.

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Q. (By Mr. Roll) Mr. Nelson, what was your first information concerning a lockout and if you will tell us how that information came to you and the circumstances?

A. My first information was in the late afternoon of June 5, 1963, when one of the news correspondents of one of the TV stations in Portland, Oregon, called my office and related a message which they had just received and I believe it has been introduced in evidence, if my memory is right, during the process of this hearing. It was a news release. I am not sure I can quote the name right. Gjerde, whom I believe is one of the staff people of Weyerhaeuser Company, and the release was announcing the decision reached by the Big Six Association of announcing the closing of their plant.

[Tr. 1504] Q. Taking you back a little ways further in the testimony. It is my understanding you testified, in one of the early meetings between IWA and the Big Six and I am talking about one of the very first meetings, either April 24 or 25, in that area, that a question was raised by you and the IWA concerning St. Regis having opened all of the contracts with IWA, and at that time you raised the question, again it is my memory that you testified that someone told you that something would be done about that or you would later meet with someone about it. Tell us what happened if you will.

A. Yes. At the conclusion of the general meeting on April 26, I met with Mr. Mike Roberts and I believe Mr. McMahon.

Q. Where did that meeting take place, Mr. Nelson?

A. It was somewhere in the Masonic Temple. It may have been in the same room as the other people left or in one of the little side rooms.

Q. Was there anyone else present?

A. Yes, I recall that Mr. Fadling and Mr. Taub were present with me. There may have been a name I couldn't remember yesterday. I am not certain.

Q. Were all of the employer representatives that you have named, were those present other than union representatives, were they all officials of St. Regis?

A. Yes.

Q. Was there any representative there of the so-called Big Six [Tr. 1505] other than St. Regis, such as Mr. Wyatt or anyone representing the Association, as such?

A. No.

Q. How long did that meeting last, sir?

A. Oh, I would suppose 10 or 15 minutes.

Q. Would you give us the substance of what was said by each of the parties?

A. Mr. Roberts explained—done most of the talking—explained the reasons why he felt that it was necessary for St. Regis to serve opening notices on all issues of the working agreement, the reason being that he was concerned with the agreement which had been reached with his company separately in 1961 which embodied a provision that would require committees from his company and the local union to meet and attempt to revise the several working agreements into some uniform language of the several agreements within his company and that he seemed satisfied himself that with the understanding that we had reached with the Association committee in relationship to the same subject that the '63 negotiation would not foreclose that agreement and as long as he had a clear understanding from us that we would proceed with his company on that uniform contract problem and work that he would send us a letter explaining their position in that respect and thereby limiting their openings to the subject matters which were before the Association committee.

[Tr. 1506] Q. Did you respond to that?

A. Yes, I told him that that procedure would be satisfactory. It was, of course, further understood that we would also meet their company separately on the matter of pensions, as I previously testified to, and on April 29 Mr. Roberts handed me in the negotiations the letter in which he had agreed to give it.

Q. Now, in the agreement that you reached with Mr. Roberts and his committee on April 26, do I understand your testimony to be that there was an agreement that his company would meet with IWA independently of the Association to carry out negotiations on contract uniformity?

A. Oh, yes.

Q. Was there any part of that agreement that provided for negotiations either through the Big Six Association or having a member of that Big Six group present in your future discussions with St. Regis on contract uniformity?

A. No.

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[Tr. 1507] Q. (By Mr. Roll) What was your testimony? Will you explain it? I frankly did not understand it.

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A. After the agreement was reached on April 26 to set the matter of U. S. Plywood local openings aside and proceed to talk about the other matters, they were not talked about again in any meeting until the meetings I have testified to, first [Tr. 1508] the one with Mr. George Walker on June 18, and in the general meeting of the negotiating committees on June 27.

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Q. (By Mr. Roll) Is that the communication that was handed to you by Mr. Roberts on April 29, Mr. Nelson?

A. Yes, it is a copy.

Q. Did you thereafter or have you since that date met with St. Regis respecting contract uniformity?

A. No, we have talked about it but we haven't done it.

Q. Have you talked about it in meetings between IWA and St. Regis, official meetings?

A. Yes, we have.

[Tr. 1509] Q. How many such meetings have you had at which this matter was discussed?

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A. We had no meeting with the company, official meeting, on that subject. The meetings were on other subjects and during the process of those meetings we talked about scheduling a meeting to talk about the uniformity of contract language.

Q. (By Mr. Roll) Let me ask this, at any such meeting, Mr. Nelson, was there ever a Big Six Association representative present?

A. Well, not unless you term Mr. Roberts and Mr. McMahon representatives.

Q. Now, others in 1963, were there other members of the so-called Big Six that were also members of the T.O.C. with which [Tr. 1510] you had contract obligations respecting uniformity?

A. Yes.

Q. Name them, will you, please?

A. International Paper Company, Crown Zellerbach Corporation, and Rayonier Incorporated.

Q. Have you had any meetings with any of those companies respecting contract uniformity since the close of negotiations in 1963?

A. You mean the individual companies?

Q. Yes.

A. No, we have not.

Q. Have you had any meetings with T.O.C. respecting this matter, respecting contract uniformity with respect to any member of the Big Six group?

A. We have met with T.O.C. in respect to uniformity of contract language, yes.

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[Tr. 1511] Q. (By Mr. Roll) At the time you met with T.O.C. in 1963 respecting contract uniformity, following the close of the negotiations with the Big Six, was any representative sent in the T.O.C. representing the Big Six Association?

A. My reason for hesitancy is the same reason I hesitated on the previous question. We have met T.O.C. on contract uniformity, we have not resumed meeting T.O.C. on contract uniformity since the conclusion of negotiations in 1963. I might add, the only reason I know of being time hasn't yet permitted resumption.

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Q. (By Mr. Roll) Are you familiar with that picture?
[Tr. 1512] A. Yes, sir, I am.

Q. Well, sir, can you tell me where it came from?

A. I cut it out of one of the daily papers.

Q. Do you know which paper, Mr. Nelson?

A. The Portland Reporter.

Q. Can you give us the approximate date, the month, when this was cut out?

A. No, I can't.

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Q. (By Mr. Roll) Do you happen to know, Mr. Nelson, whether any of the members of Big Six, that is, the company officials of any member companies of the Big Six are presently members of T.O.C.? Do you know that of your own knowledge.

A. No, I only know what I have been told.

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[Tr. 1513] Q. (By Mr. Roll) Do you know personally who the officers of T.O.C. are or not? If you don't have the facilities to know, why, that answers my question.

A. I don't know who they are, all are. I know who some of them are.

Q. How did you acquire that knowledge?

A. The only ones who I am certain of is Mr. Carl Glos and Mr. Gregory, both of whom I have recently met with as members of a pension board and I inquired if what I read was correct, if they were officers of T.O.C. Of course I knew Mr. Glos was. I was really inquiring of Mr. Gregory of Pope and Talbot if he was and his company was one of the companies who withdrew from the 1963 negotiations from T.O.C. and settled on their own.

Q. Did you inquire at that time and did you learn through the other officers or members of the board who were of T.O.C.?

A. No, I did not.

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[Tr. 1522] Q. (By Mr. Roll) Do you know of your own personal knowledge?

A. All I know is what the 1961 settlement agreement provides for.

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[Tr. 1526] Q. (By Mr. Roll) Mr. Nelson, going back to the first meeting of IWA with Big Six on April 24 of 1963, do you recall—strike recall, did you have in that first negotiating meeting a discussion respecting T.O.C. matters and if so, state with whom such discussion took place and give the questions and answers by each party.

A. The answer is yes, we discussed and agreed.

Q. And when you say we, who did the discussing?

A. Mr. Wyatt and myself. We discussed and agreed that wording agreed to in 1961 setting up committees to study uniformity of contracts and uniformity of health and welfare and the Weyerhaeuser Agency Shop question, would not be foreclosed [Tr. 1527] by any agreement reached by the Big Six and ourselves in 1963. The uniformity of contract agreements extended beyond T.O.C. and extended to Weyerhaeuser Company as a company as I previously testified it extended to St. Regis as a company and it extended to U. S. Plywood as a Company. The other three companies having signed a T.O.C. settlement in '61 with the exception of the pension provisions.

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Q. (By Mr. Roll) All right, now, which members of member companies of Big Six were bound by the 1961 contract to negotiate health and welfare through T.O.C. in 1963 and in the future?

A. Rayonier, International Paper and Crown Zellerbach.

Q. Which of the Big Six companies were required as a result of the 1961 up to 1963 contract, which of the companies of the Big Six by virtue of the 1961, 1963 contract were required to negotiate uniformity of contracts with IWA through T.O.C. for the year 1963 and the future?

A. Crown Zellerbach.

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[Tr. 1529] Q. (By Mr. Roll) Again, Mr. Nelson, referring you to General Counsel's Exhibit 35B and the stipulation and agreement immediately following that will you look at the stipulation and agreement and tell us whether you recognize it and if so, what it is?

A. Yes, I recognize it. It is the agreement reached between our union and United States Plywood Corporation for the year of 1961 and ratified by Mr. Harris, the union business agent of Local 3-140, I believe.

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[Tr. 1530] Q. (By Mr. Roll) Is that what you referred to earlier in respect to uniformity and health and welfare?

A. Yes, it is.

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[Tr. 1531] Q. (By Mr. Roll) Is that the only provision, Mr. Nelson, or is there another one referring to health and welfare or other subject matter to be handled separately from future negotiations?

A. Yes, there is a health and welfare provision.

Q. And what paragraph number is that?

A. (b)—6(b).

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[Tr. 1534] Q. (By Mr. Roll) Now, Mr. Nelson, have the studies of any of these committees been concluded to a final agreement?

A. No.

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[Tr. 1535] Q. (By Mr. Roll) Or established and their work as yet uncompleted, if you wish.

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A. Yes, there has been some such committees established. They have not completed their work.

Q. (By Mr. Roll) Has the work of any committee been completed?

[Tr. 1536] A. Not to this date.

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[Tr. 1538] Q. (By Mr. Roll) Mr. Nelson, in the receipt of opening notices for 1963 from the various employer branches of plants and following receipt of all of the openers that were made for Regional Council negotiations, did you have prepared in your office in the regular course of business a booklet which designated each company plant and each local union showing the subject matters to be negotiated by the IWA in 1963?

A. Yes, as to those employers in the industry who had delegated authority to represent them.

Q. Does the booklet show the subject matter that was to be of the conduct of Regional negotiations as well as the subject matter to be negotiated between the local union and the company plant?

A. Yes.

Q. Who prepared the information that is contained in the [Tr. 1539] booklet?

A. My office secretary prepared it with some other help, of course within the office.

Q. And was this booklet used by you in the course of negotiations?

A. Yes, it was.

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Q. (By Mr. Roll) Have you at my request had these duplicated for use in this proceeding?

A. Yes, I have.

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[Tr. 1541] Q. (By Mr. Roll) Mr. Nelson, going back to testimony that was given prior to the noon recess, what was the first date—strike that. Do I understand your earlier testimony to have been that Mr. Wyatt informed you in the opening of negotiations on April 24, 1963 that the Big Six negotiations when concluded would bind the six companies involved, is that your testimony?

A. Yes.

Q. When was the first time that you ever heard from Mr. Wyatt the words that this Association would be able to bind the companies that it represented?

A. April 24, 1963.

Q. Referring you back to your first conversation with Mr. Wyatt by telephone during the month of February of 1963 about the preliminary discussions respecting the formation of a proposed Association, do you recall your testimony with respect to that telephone conversation?

A. Telephone conversation when?

Q. In February of 1963, the first time Mr. Wyatt and you talked about the proposed formation of this Association. I [Tr. 1542] have forgotten whether it was by telephone or in person. Do you remember a conversation with Mr. Wyatt in February?

A. Not on the telephone.

Q. Did you have one in person?

A. I had one in person.

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[Tr. 1543] Q. (By Mr. Roll) Mr. Nelson, in the meeting prior to April 24 of 1963, your first negotiating meeting with the Big Six, did Mr. Wyatt ever tell you that he was either forming or had anticipated forming any association that would be able to bind the member companies?

A. No.

Q. Did anyone else other than Mr. Wyatt speak on behalf of the so-called Big Six or any member of the Big Six tell you prior to April 24, 1963, that the Association either prior to the time that it had been formed or after it had been formed [Tr. 1544] would be able to bind any member of the Big Six companies?

A. No, I never talked to anyone else about it nor they to me.

Q. Now, following the conclusion of 1963 negotiations with Big Six and after the final settlement had been reached at the conclusion of negotiations, did any member employer of the Big Six contact you or IWA to seek revision of the 1963 settlement on any matter that was concluded by that settlement?

A. Yes.

Q. What was the subject matter which such meeting referred to and just name the subject matter.

A. Hours of labor.

Q. Will you state what such a meeting was called, how it was called, who called it, who was present and the circumstances?

A. I might first say when I went to the meeting I was not aware of the subject matter. I became aware of the subject matter after arriving at the meeting.

Q. May I interrupt you for a moment. Which of the Big Six companies made such a request for contract revision?

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Q. (By Mr. Roll) Very well, go ahead with your answer.

A. Sometime during the month of March of 1964, I had occasion to be talking to Mr. Scott Witt of Weyerhaeuser on the telephone. During the conversation he advised me that Lowery Wyatt would like to meet with me and Mr. Hartley and wanted to [Tr. 1545] know approximately when I might be available and were I willing for such a meeting and I told him I was. I gave him some approximate times that my calendar was clear and I believe the next call came from Mr. Wyatt's office; I did not receive it, my office received it—if not Mr. Wyatt, Mr. Witt's. It came from the Tacoma office suggesting a meeting on April 2 at the Multinoma Hotel in Portland, and my secretary advised me of the call. I told her to respond that I would be available for such a meeting in late afternoon if Mr. Hartley was available. The meeting was tentatively set on that schedule. She, my secretary, later received a call from Tacoma, Weyerhaeuser's office and I was in a meeting of my own and she paged me a notice advising me that the Weyerhaeuser Company was on the phone. I believe Mr. Wyatt's secretary said Mr. Wyatt had to catch a plane that evening for Los Angeles and would I be willing to come to Portland airport for such a meeting and how early could I get there. I asked if Mr. Hartley had responded and she said she would find out.

I told her I could meet at 5:30; as I recall this date, this was April the first. The following morning I had occasion to be talking to Mr. John Berger another representative of Weyerhaeuser in Tacoma and so at that time I confirmed or asked him to confirm to Mr. Wyatt that I would meet him at the Portland Airport at 5:30 that afternoon and I did meet along with him.

Q. Where did you meet at the airport?

[Tr. 1546] A. We met in the restaurant.

Q. Was that at about 5:30 in the afternoon?

A. It happened to be a little later than that. I think they were a little late in their plane getting down.

Q. Who was present at that meeting?

A. Myself and Mr. Earl Hartley, Mr. Scott Witt, and Lowery Wyatt.

Q. Will you relate the conversation; who said what and the responses.

A. Well, Mr. Wyatt said he had matters he would like to discuss with us and get our views. He proceeded to tell us about the problems of operating some of the newer plywood plants on the old and present hours of labor schedules and expressed the desire of his company to try and find a way to reach an agreement with our unions in order that they may be able to schedule all-around-the-clock operations.

Q. When you say they, who do you mean?

A. Weyerhaeuser, and wanted to know our views. We expressed those views. I spoke first and expressed the views that the hours of labor was because of the great controversy that arose in 1963 negotiations that there was little use, if any, of talking about it at that time and during the process of my conversation asked him what operations he had in mind and he said Springfield, Oregon and Snoqualmie Falls, Washington. I asked him why just those two.

[Tr. 1547] Q. Mr. Nelson, do you know what company owns the plants at Snoqualmie Falls and Springfield?

A. Weyerhaeuser; the ones that have been talked about. His explanation was that they were companies really serious of trying to find a formula whereby the problems

as he related them could be resolved within those plywood plants and he thought that it would be easier for us if we were in agreement for all.

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A. (Continuing): He explained he had no particular reason other than he thought if there was an area of agreement it would be easier to reach through those operations rather than talking about all of the operations within the company and said those particular operations were nothing important about them, that they could be any other that we may have in mind or all of the operations within Weyehaeuser. There was considerable discussion. Mr. Hartley also expressed his views doubting that there was anything that could be arrived at to make changes at that time or at this time and after considerable discussion I again expressed my views that I didn't want to give any false encouragement that I just didn't believe that the membership of the IWA would agree to any changes regardless [Tr. 1548] of what may be done in its place insofar as the hours of labor was concerned. Mr. Wyatt let it be known during our discussion that the company would, if they were able to, work out a satisfactory arrangement to revise the hours of labor that they would be willing to take a look at some improved wage structure within plywood and within the plywood plants effected in order to make it more palatable to the employees including that he would assure us that no employee would be required to work on any shift against the individual's opposition. I again emphasized that I just didn't think that the IWA was interested. Mr. Hartley expressed similar or substantially the same views. We concluded our meeting on the basis that it wasn't a closed subject that we would discuss it in due time with some of the other people within our unions and if we found any interest that we would be happy to arrange another meeting and discuss the matter further.

Q. Has there been another meeting scheduled between the parties since?

A. No, there hasn't.

Q. Was any company of the Big Six other than Weyerhaeuser discussed in this meeting?

A. No.

Q. Were you in the courtroom, Mr. Nelson, when Mr. Wyatt testified concerning there having been meetings of an automation committee that was set up between Big Six and the IWA in the 1963 settlement?

[Tr. 1549] A. Yes, I was.

Q. Have there been any such meeting or meetings since the settlement?

A. No.

Q. Was there a gathering of any kind at which you were present relating to the IWA-Big Six committee?

A. Yes.

Q. Will you state where that was, the approximate date and time?

A. It was during the month of December, early December of 1963 in the University Club in Portland, Oregon at 6 p.m. or 6:30 p.m.

Q. Who called that meeting or how was it arranged?

A. The meeting was arranged by Mr. Keith Boddy as the primary one. I think that another had commented about it but Mr. Keith Boddy made the arrangement with me.

Q. Who attended?

A. Well, I attended for the IWA. The meeting was arranged, let me say, on the basis I invited those whom I wanted to attend and was advised that each one of the companies in the Big Six expected to have some of their top officials attending.

Q. May I interrupt at this point. Was there an automation committee set up as of this date?

A. No, there still isn't.

Q. That answers my question. Go ahead, sir.

[Tr. 1550] A. So I had invited myself, Jim Fadling and Mr. Gunvaldson. As I related the invitation to Mr. Fadling or called him and reminded him about the day before he reminded me that it was his wife's birthday and unless I insisted he would not come down. Mr. Gunvaldson had other commitments as it developed so I was the only one present from the IWA. One was present for the Lumber and Sawmill Workers; I am not

sure I can identify each and every employer who was there but I will come close I think. Mr. Keith Boddy and Mr. Hallin for Crown Zellerbach were there. Mr. Wyatt was there from Weyerhaeuser. I am not sure whether anyone else from Weyerhaeuser was with him or not. Mr. Len Forrest was there from Rayonier Incorporated. Mr. Haselton was there from St. Regis. Mr. Leeper was there for U. S. Plywood and Mr. Kelsy was there from International Paper. That is all I recall.

Q. Will you relate—how long did the meeting last?

A. Well, if it was a meeting, it lasted from around 6 or 6:30 until—I don't know, 10 o'clock, something like that.

Q. What was the subject matter?

A. Well, the subject matter was a basis in which it was established was a good will get together and the employers brought some drinks and gave us our supper. I was not able to enjoy their drinks, I had to sit and watch the others.

Q. Was business transacted in that meeting respecting automation?

[Tr. 1551] A. No, there was no business discussed.

Q. Has there been any other gathering or meeting of committees that was set up that functioned subsequent to the settlement of 1963 Big Six?

A. Yes.

Q. What was that, if you will please, and give us the date and place.

A. Committees dealing with the travel time for loggers settlement.

Q. Has that matter been resolved, Mr. Nelson?

A. Yes, it has.

Q. Now, directing your attention to, let's say the ten years immediately preceding 1963, or say from 1950 or '55 up to 1963, has there been any history of bargaining in the Northwest lumber industry on any unit basis other than single company unit, single plant, single company unit?

A. None that I know anything about.

Q. Are there any contracts between the IWA and any employers that cover a bargaining unit broader than a single plant or a single company?

A. There are none in the IWA and elsewhere that I know of.

Q. During the year of 1963 and the discussions with Mr. Wyatt leading up to your first meeting of April 24, 1963, was the subject matter of a multi-employer bargaining unit ever mentioned to you?

[Tr. 1552] A. In discussions between I and Mr. Wyatt?

Q. Yes.

A. No.

Q. During the negotiations—throughout the negotiations from April 24, 1963 up until the settlement agreement was finally concluded was in any of those negotiations was the question of a multi-employer bargaining unit ever raised with IWA for purposes of negotiations?

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[Tr. 1553] A. The answer is no.

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Q. (By Mr. Roll) Were you, Mr. Nelson, requested individually and apart from the written opening notices by any employer of the Big Six to open on the question of the extent of bargaining [Tr. 1554] unit?

A. No.

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Q. (By Mr. Roll) At any time during the course of the negotiations from their commencement on April 24, did Mr. Wyatt or any member of the Big Six ever advise you that the Big Six were negotiating as a separate multi-employer bargaining unit?

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A. No.

Q. (By Mr. Roll) Mr. Nelson, from your knowledge and your experience as a representative of IWA for the periods of time that you have so testified, did Mr. Wyatt or the Big Six make any statement or engage in any conduct that caused you to believe that the Big Six were negotiating on any unit different [Tr. 1555] than had

been the customary procedure in past negotiations under T.O.C. or any other of the Association multi-employer associations that you have testified concerning it?

A. No.

[Tr. 1556] Cross-examination.

Q. (By Mr. Prael) Mr. Nelson, do you furnish a statement to the NLRB Regional Office?

A. Do I furnish a statement?

[Tr. 1557] Q. Did you, excuse me. Yes, to the NLRB Regional Office.

A. Yes, I did.

Q. When did you furnish such a statement?

A. Oh, I don't recall the exact date. I think it was late in the month of June 1963, or July of that year.

Q. Did you give them more than one statement?

A. To the NLRB?

Q. Yes.

A. I gave them copies of minutes which I have prepared from notes that I took during negotiations.

Q. You gave them copies of minutes or notes that you took during negotiations?

A. Yes.

Q. And you also gave them a written statement?

A. Yes.

Q. Did you give them anything else?

A. Yes, I gave them lots of copies of contracts.

Q. The statement you gave them, was that sworn to before a notary public?

A. No, sir, it was not.

Q. It was not a sworn statement. Did you sign it?

Trial Examiner: Just a minute. Was it a sworn statement or not?

The Witness: No, it wasn't.

[Tr. 1559] Q. (By Mr. Prael) Mr. Nelson, did you write out the statement or did you dictate it?

A. I didn't write it. I dictated it.

Q. And then who did you send it to?

A. I sent it to the NLRB in Portland, Oregon, and to Mr. Roll and our attorney in Roseburg.

Q. How did you happen to send this statement in to the NLRB office in Portland? Did they request it, did somebody request it of you?

A. They either requested it direct or Mr. Roll asked me to do it as he had been requested by the Board to furnish this statement.

Q. And it was, after you dictated it and it was typed up, how many pages, did it consist of, do you recall?

A. No, I don't. It was more than one.

Q. I can imagine. Would you say it would be half dozen pages, or do you recall?

A. I think approximately a half dozen pages.

Q. You say a copy of that was sent to Mr. Roll?

A. Yes.

Q. Was a copy sent to anybody else?

A. Not that I know of.

Q. Did you send the Board's office in Portland more than one [Tr. 1560] copy?

A. And that I do not know.

Q. Did you receive a further request from the Board for a further statement?

A. No.

Q. Did you at any time meet with the people from the Board's Portland office to discuss this case?

A. I believe the answer is yes.

Q. Who did you meet with?

A. I met with Mr. Dale Cubbison.

Q. Did you meet with him on more than one occasion?

A. I only specifically recall one.

Q. And when was that?

A. Some two or three weeks after the charge was filed, to my best recollection.

Q. Your meeting with Mr. Cubbison, was this before or after you sent the Board this statement?

A. It was before.

Q. Before. And at that time—did you see Mr. Cubbison at the NLRB office in Portland or did he come to your office?

A. He came to my office.

Q. And did he ask you a lot of questions, is that it?

A. Oh, he asked me some questions.

Q. Did he take notes?

A. I don't know; I don't recall.

[Tr. 1561] Q. Did you see him write on a yellow tablet? I think that is the way most Board agents operate. Do you recall that?

A. I would agree with your last statement but I don't recall specifically if Mr. Cubbison was taking notes.

Q. You don't remember whether he was taking notes or not?

A. No.

Q. He didn't show you any notes at that time?

A. No.

Q. Is that what he requested you to furnish, a statement, do you recall?

A. No, I don't. My memory tells me that Mr. Roll made the specific request that I draft a statement.

Q. And send it to the Board?

A. And send it to the Board and send him a copy.

Q. And send it to the Board, did you send it to Mr. Dale Cubbison's attention, or how, or just to the Board's office or do you recall?

A. I have to frankly say I don't know. I assume it was.

Q. You only—after you furnished the statement did you have any further discussion of the case with Mr. Cubbison?

A. Yes.

Q. And at that time did Mr. Cubbison take notes of your statements, what you told him?

A. I believe not.

Q. Did you meet with anyone else at the Board office after [Tr. 1562] you furnished the statement we are talking about?

A. Yes.

Q. Who did you meet with?

A. I met with Mr. Boyce.

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Q. (By Mr. Prael) And did you meet with anybody else?

A. Mr. Byrholdt.

Q. Now, when did you first meet with Mr. Boyce?

A. Either the last few days in March or early in April.

Q. Of this year?

A. Of this year.

Q. Prior to the end of the year, the only Board representative you met was Mr. Dale Cubbison in Portland, is that right?

A. That's right.

Mr. Byrholdt: In reference to this case?

Mr. Prael: Yes.

A. That was what I understood.

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[Tr. 1566] Q. (By Mr. Prael) Mr. Nelson, I will hand you a document consisting of 12 pages which was just delivered to me by counsel for the General Counsel. It is headed on the first page, Bargaining History with the six companies comprising "The Big Six" Association for the years 1961, 1962, and 1963 up to date. On the last page, page 12, it reads dated the 17th day of July 1963 and there is a line, beneath the line Harvey R. Nelson, Chairman, Western States Regional Council III Negotiating Committee. Also in the lower-left hand part of the last page there is HRN;cc. I see it is on water marked paper of the Western States Regional Council III. I will ask you if you recognize that.

A. Yes, I do.

Q. Would you look it through. What is that? Is that a statement you furnished the NLRB Regional office in Portland at the time of their investigation?

A. It is a statement I furnished that I previously testified to.

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Q. (By Mr. Prael) This is the complete statement you dictated, [Tr. 1567] Mr. Nelson?

A. Well, it is not the one I signed.

Q. Where is the one you signed?

A. I wouldn't know.

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Q. (By Mr. Prael) Mr. Nelson, would you read this paragraph on page 8, second paragraph, beginning prior to the time of receiving the written notice from the various companies stating they joined the Association group.

Trial Examiner: Read it to himself?

Mr. Prael: Read it out loud. We might as well all hear it.

Q. (By Mr. Prael) That paragraph by your thumb on page 8.

A. "Prior to the time of receiving the written notices from the various companies stating they had joined the Association [Tr. 1568] group I had been advised verbally by Mr. Wyatt they had an agreement from six companies to form the Association and establish a committee from the Association members for joint bargaining with the union. He also advised they were still in the process of attempting to get an agreement from others of the Big Companies within the industry such as Georgia Pacific Corporation."

Q. Did you dictate that on or about July 17, 1963?

Mr. Byrholdt: I will so stipulate.

Mr. Prael: So stipulated.

I offer the evidence to show it is in conflict to the rest of his testimony.

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[Tr. 1569] Mr. Byrholdt: I have no objection of it going in.

Trial Examiner: I will receive Respondents' 396.

(The above referred to document, heretofore marked Respondents' Exhibit No. 396, was received in evidence.)

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Q. (By Mr. Prael) Mr. Nelson, I understand you have been an [Tr. 1570] officer of IWA for some years. How many years altogether have you been an officer of IWA?

A. Since 1942 except for some earlier years within a local union. There was a gap.

Q. Yes, I recall your testimony that at one time you were local business agent and president of a local.

A. That is right.

Q. And then there was a gap?

A. That is correct.

Q. And then in 1942 you became an official of the IWA and what was the office you held?

A. President of the Columbia District Council No. 5.

Q. What jurisdiction did Columbia District Council No. 5 have?

A. Well, geographically the extreme southern part of the State of Washington bordering the Columbia River and the western Oregon, Northwestern Oregon, south to approximately Cottage Grove, Oregon, the area from the Cascade Range to the Pacific Ocean.

Q. And you continued to hold that office how long?

A. Until the Regional Council was established in 1959.

Q. For a period of 17 years, is that correct?

A. If that is what it adds up to. I haven't added it.

Q. Did you hold the same office at all times?

A. Yes.

Q. And as such official, did you conduct negotiations on [Tr. 1571] behalf of any of the union members in the locals during those years 1942 to 1959?

A. Oh, yes, periodically, not at all times.

Q. How often?

A. Well, I don't know as I could tell you how often. There was years when you were negotiating for a local union and individual employer. There was years when

groups of employers negotiated together. I was not always part of negotiating committees.

Q. As president were you, even though you were president, sometimes you were a member of councils negotiating committee and sometimes not, is that right?

A. That is correct.

Q. Who selected the negotiating committee for that District Council No. 5?

A. Membership of the local unions within the District by referendum.

Q. And did you not become a member of such committees unless so elected even though you held the office of president, is that correct?

A. That is correct.

Q. At the time you were president of that District Council, did you hold any other office in the union or any other union?

A. Any other union?

Q. IWA.

A. I may have been an international board member. I think not, however. I think it was prior to 1942.

[Tr. 1572] Q. Prior to 1942 you were a member of the International Board?

A. International Executive Board. I am not sure of the period of time.

Q. Well, how long were you a member of the International Executive Board?

A. I don't know that.

Q. Was it for more than one year?

A. Probably two.

Q. You don't know whether it was before or after 1942?

A. No, I don't.

Q. I take it you were elected to that office as well or is that by appointment?

A. That is by election. Are we speaking of between '42 and '59?

Q. Yes, prior to '59. There was a change in '59, I take it?

A. That is correct.

Q. Prior to '59 while the Columbia District Council No. 5 was in existence, what offices did you hold in the IWA aside from being president of the Columbia District Coun-

cil No. 5 and sometime in there a member of the Executive Board of the International?

A. I was also a member of the Northwest Negotiating Committee for a couple of years, as I recall the period.

Q. Tell me, where did the Northwest Negotiating Committee fit into this picture? What authority did it have? [Tr. 1573]

A. The Northwest Negotiating Committee was composed of representatives of then existing eighth district council and the International Union in the Pacific Northwest and each district elected members as part of that committee.

Q. Were you elected to that Northwest Negotiating Committee by District Council No. 5?

A. Yes, I was.

Q. And I take it there were seven other district council similarly represented on that Northwest Negotiating Committee, is that right?

A. Yes, it may not have always been the same number.

Q. And that was for two years you functioned in that capacity?

A. Yes.

Q. Can you give us approximately the time?

A. I think that period was about 1942 and '43 and possibly extended over into the year '44.

Q. Did the Northwest Negotiating Committee representing, I take it these eight district councils in the Pacific Northwest, did they negotiate with employers in 1942 if those were the years, approximately?

A. We primarily negotiated with the west coast lumber commission and the War Labor Board.

Q. And 1943, what was the situation? Did you negotiate in those years?

A. The same situation. We negotiated, yes.

[Tr. 1574] Q. But the final control was in the War Labor Board during those years?

A. That is correct.

Q. In 1944 what was the situation?

A. Let me go back and correct '42. '42 negotiations commenced between what was then a fairly new formed association LIRC, Lumbermans Industrial Relations Committee and the Northwest Negotiating Committee. As

negotiations progressed or lack of progress Professor Jenson became involved as arbitrator.

Q. Professor Jensen of some university?

A. Yes. Don't ask me where.

Q. He was a college professor?

A. I am sure he was.

Q. He became the arbitrator?

A. Yes and he rendered a decision that was known as the Jenson Award. The war broke out and the War Labor Board was established and the Jenson Award was then referred to the War Labor Board and became known as Case No. 90.

Q. Then, there were negotiations again subject to War Labor Board rulings in 1943 and '44 in which you participated, is that right?

A. I am sure I participated in '43, at least during that period of time I participated in negotiations.

Q. Now, that was the end of your term in the Northwest Negotiating Committee, is that right?

[Tr. 1575] A. I believe it was.

Q. Did that committee bargain with the employers or groups of employers or associations or committees that represented employers in the lumber industry all over the northwest at one committee?

A. They substantially done the same as now, the Western States Negotiating Committee. The area of the former district councils, which formed the present Regional Council is very little different than the area in which the Northwest Committee represents.

Q. Now, the present regional council was formed in 1959, is that correct?

A. Yes, we officially was established on August 1 of 1959. By established I mean the merger officially took place on that day.

Q. Was that the merger of the earlier district council? They formed one big council?

A. Yes.

Q. During the period 1944 until 1959, when that merger took place, did you participate in negotiations in any respect?

A. In any respect, yes.

Q. In what respect? I don't want to go into too much detail. I just want to get a general picture.

A. I tried to be somewhat available at least for the negotiating committee members from our district council from time to time as negotiations proceeded or failed to proceed.

[Tr. 1576] Q. And then in 1959 the Regional Council was formed. In forming that Regional Council, were the district councils dissolved or do they have district councils today under the Regional Council?

A. The District Council merged into one so the eight district councils became the Western States Regional Council. There are no more district councils within the IWA.

Q. Now, in 1959 to the dissolution of the district council which you were president, what was your next office?

A. My next office was president of the Regional Council.

Q. Is that the same council of which you are now an official?

A. Yes, it is.

Q. Your present position is what?

A. I am president of the Western States Regional Council No. 3 in the IWA.

Q. It has always had that name since 1959?

A. Yes, it has.

Q. Now, that Western States Regional Council, is it affiliated with the national organization called Industrial Woodworkers of America, is that correct?

A. No, I used to be closely allied with a name close to that.

Q. Now, International Woodworkers of America, is that right?

A. Yes. We are a subordinate body.

Q. Where are the headquarters of the International?

A. In Portland.

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[Tr. 1577] Q. (By Mr. Prael) Does the International Woodworkers of America have control in any respect over

the Western States Regional Council of which you are president?

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A. If control means are we obligated to carry out within the Regional policies, the answer is yes, I am, but let me add they cannot establish policies within the Regional Council.

Q. (By Mr. Prael) What is the membership of the Western States Regional Council No. 3?

Mr. Byrholdt: Objected to as immaterial.
Trial Examiner: Overruled.

A. About 32, 33 thousand.

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Q. (By Mr. Prael) Does the jurisdiction of the International extend all over the United States?

A. It extends all over the world.

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[Tr. 1579] Q. (By Mr. Prael) Did you learn anything about bargaining with multi employers while a member of the executive board of the International?

A. No, sir.

Q. Did the executive board of the International have anything to do with dealing with multi employer groups?

A. I don't know.

Q. Well, what did you do as a member of the executive board of the International?

A. Are you talking about prior to 1959 or after?

Q. Were you a member of the executive board of the International on more than one occasion? You testified before 1959. Have you been a member since 1959?

A. I have been a continuous member since the Regional Council was established on provisions in the International Constitution.

Q. You became president of the Western States Regional Council No. 3 in 1959. What other offices in the IWA or its [Tr. 1580] affiliates have you held since 1959? Maybe if I get straight I can get it.

A. Executive Board of the International Union.

Q. At all times since 1959, is that right?

A. Yes.

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Q. (By Mr. Prael) Does the Western States Regional Council III have a charter from the International Woodworkers of America?

A. Yes.

Q. When was that charter granted, in 1959?

A. Yes. Well, I say yes. We became a body whether the charter was physically produced and signed in 1959, I can't give you first hand memory, but I presume it was done during that [Tr. 1582] year.

Q. Does the Executive Board of the International Union have any function to perform in connection with the kinds of contracts negotiated for members of the IWA?

A. No.

Q. Are members of, all members, of the IWA local automatically members of the International?

A. I guess so. They have to issue the local's charters and without a charter they are not affiliated with the International.

Q. I understood your testimony yesterday an organization called the Timber Operators Council was formed in 1960, is that correct?

A. I believe that is my testimony.

Q. And I also understood your testimony that you at one time told Mr. Wyatt that in bargaining with the Association you did not want to get in the same position you were in when you bargained with the Timber Operators Council. Did you tell him that?

A. That or a similar statement. I believe that is a correct statement.

Q. When did you tell him that?

A. I believe I told him that during the meeting of April 24.

Q. Did you make any reference to that fact in the meeting of April 12?

Mr. Byrholdt: Objection. There is no meeting in this record on April 12.

[Tr. 1583] Q. (By Mr. Prael) The phone call of April 12.

A. No, I did not.

Q. Did you make any reference to that at the meeting you had with Mr. Wyatt which was on February 18?

A. No, I don't recall that.

Q. Was there any reference during that meeting of February 18 to Timber Operators Council at all?

A. I don't believe so.

[Tr. 1584] Q. But at the meeting of April 24 that was the first meeting between the IWA bargaining committee and the Association bargaining committee, is that right?

A. That's right.

Q. At that time at that meeting, you told Mr. Wyatt, who was acting as spokesman for the Association, you did not want to be in the position in bargaining with the Association that you had been in bargaining with T.O.C., is that correct?

A. That's right.

Q. Did you explain to him any further what you meant by that?

A. I may have made some additional comments. I am sure he knew what I meant. I think I told him that, as a brief explanation, that we wanted to know whether the members were going to be in or out throughout the period of negotiations.

Q. And what did he say?

A. He said that it was his understanding as of then they would be in.

Q. And he also told you, I think you testified, that all members would be bound as a result of negotiations between the two committees, is that right?

A. A statement to that effect, if not exactly.

Q. Not exactly those words, but to that effect, right?

A. Yes.

Q. When did he tell you, at the beginning of the meeting?

A. Very shortly after the meeting opened.

[Tr. 1585] Q. On February 18, as I understand it, he came to Portland to talk to you about the possibility of this new association, is that right?

A. That's correct.

Q. He had talked to you before about the possibility of a new association, hadn't he?

A. No, sir, not that I know of.

Q. He never talked to you—

Trial Examiner (interrupting): What day was this?

Mr. Byrholdt: February 18.

Q. (By Mr. Prael) He never talked to you about the possibility of forming an association before February 18?

A. No, sir.

Q. Is your recollection as clear today as your recollection was the day you dictated the memorandum, July 17, 1963?

A. I hope so.

Wyatt explained to you that he was interested in forming

Q. As I recall your testimony, you said that when Mr. an association, you said that was a good idea, the basic principle was sound, or something of that sort, is that right?

A. Yes, I commented to Mr. Wyatt in view of his explanation that I thought if he was able to put together an association in line with his theory or ideas as he expressed them, I thought it would be a good idea.

Q. What were the theories and ideas he expressed to you about [Tr. 1586] this association? Did he say he was going to organize another T.O.C.?

A. No.

Q. You didn't approve of the way the T.O.C. was organized, did you?

A. No.

Q. What was the difference between the T.O.C. and the Association, the one Mr. Wyatt proposed to form as he described it to you on February 18?

A. Primarily the size of the operations which he was talking about.

Q. And what else?

A. That is basically it.

Q. As a matter of fact, he told you he was proposing to form an association in which all the employers would be bound by the result and they couldn't pick or choose as they did in T.O.C., didn't he, didn't he tell you that?

A. No, he did not.

Q. That was a complete surprise to you when you found that out on April 24?

A. Yes.

Q. Are you as sure about that conversation on February 18 as you are about that telephone conversation of April 12?

A. I think I am, yes.

Q. Which is the truth, on April 12 Mr. Wyatt told you this six members had agreed to form an association, or did he tell [Tr. 1587] you that they hadn't agreed? Which one did he tell you?

A. He told me, as I previously testified here, that five had agreed and the sixth one was indefinite and undecided.

Q. Does your memory change on that since July 17?

A. No, I don't think so.

Q. Did you have a third telephone call from Mr. Wyatt on April 12?

A. No, sir, not that I know of.

Q. Did you have a telephone call from him sometime prior to receiving those written notices from the various companies stating they had joined the Association?

A. I and Mr. Wyatt had had many and numerous phone calls about many and numerous subjects.

Q. And you don't recall specifically being told on the telephone prior to receiving those notices, those letters that the six companies had formed an association and agreed to be bound, you don't recall that telephone conversation with Mr. Wyatt?

A. I don't know as there was one. If there was I am not aware of it.

Q. Did he tell you verbally that at any other time, face to face, that six companies had formed an association, prior to your receiving those letters?

A. No, sir, he did not.

Q. Then the statement in this that you included in this [Tr. 1588] statement submitted to the Labor Board that you read a little while ago is not true?

A. It is apparently incorrect in that respect.

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[Tr. 1608] Q. (By Mr. Prael) Mr. Nelson, maybe Mr. Byrholdt can clear this up for me, but I just want to be sure.

I find in the record that I asked this witness at one time if he had signed R-396. Before he answered the question the Trial Examiner asked another question, which was, "Was it a sworn statement?", and the answer was no. I assumed at that time the no was to me, to my question, but I find it was to the Trial Examiner's question.

Did you ever sign R-396?

A. To the best of my recollection my secretary used a rubber stamp of my signature.

Trial Examiner: By your authorization?

The Witness: Yes.

Mr. Prael: That is the copy you showed me?

Mr. Byrholdt: That is correct.

Q. (By Mr. Prael) Now, Mr. Nelson, I will show you R-396. You have already pointed out that the paragraph in the middle of Page 8, regarding advice verbally given you by Mr. Wyatt about the six-company agreement is incorrect. Would you look at R-396 and tell me whether any other part of this statement is incorrect according to your present recollection, would you look at that please?

The Witness: May I have time to read it?

Trial Examiner: We will have to give you time. How long [Tr. 1609] will it take? We gave the Respondents about 15 minutes yesterday to look it over. Would you need that much?

The Witness: Yes. Make it 10 minutes.

Trial Examiner: We will have a 10-minute recess.

(A short recess was taken.)

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[Tr. 1610] Q. (By Mr. Prael) Mr. Nelson, after looking over R-396, your statement of July 17, 1963, to the NLRB, can you tell us whether that statement is in error in any other respects, that is, other than the paragraph you pointed to yesterday on page 8?

A. Yes, there is some errors in accordance with my present memories and recollections.

Q. Would you point those out to us, please?

A. I might first say, being asked to prepare a statement I was asked to prepare a rough outline of the history of bargaining.

Q. Would you answer the question, please, Mr. Nelson? Would you please limit your answer to the question?

Trial Examiner: Do you want to hear the question read?

The Witness: Yes, please.

Trial Examiner: Read it please.

(The pending question was read by the reporter.)

[Tr. 1611] Trial Examiner: Do you want a yes or no answer?

Q. (By Mr. Prael) Answer yes or no.

A. Yes.

Q. What are those other errors?

A. In accordance with my present recollection, referring to page 2, I am referring to—

Q. (Interrupting) I see you are referring to some notes. Can I see the notes you are referring to?

A. Yes, sir, I made them while I was reading.

Trial Examiner: Let the record show that the counsel has returned the notes to the witness.

Q. (By Mr. Prael) Can you give us the errors without reference to the notes or are they helpful?

A. I only identified the pages during the recess that I read this.

Q. That is perfectly all right. If that helps, go ahead.

A. On top of page 2 carrying over a statement in respect to St. Regis Paper Company, I do not presently have any recollection of a statement from them that they were in fact severing their membership from Timber Operators Council, Inc.

Q. Just a moment please.

A. I may have had something at the time I dictated this, but I do not recall it at this moment.

Q. You are referring to the statement beginning at the bottom of page 1 and continuing on page 2 as follows: "St. Regis had been a member of Timber Operators Council, Inc., an employer [Tr. 1612] organization. We were

advised they were not granting authority to Timber Operators Council, Inc., and they were, in fact, severing their membership with Timber Operators Council, Inc."

You don't recall at the present time having any of them advising you that they were severing their membership with Timber Operators Council, Inc.?

A. That is what I said.

Q. Is your recollection at the present time that you don't recall it or are you stating that in your present recollection they did not so advise you?

A. I believe my statement was that I do not recall at this moment any information received from St. Regis that would support that statement, referring to the severing of their membership of Timber Operators Council. I may have had such at the time I dictated this. If I did, I don't recall it.

Q. Were you advised at any time after 1961, that has reference to 1961, as I understand your statement, were you advised at any time during or after 1961 that St. Regis Paper Company had severed their membership with Timber Operators Council?

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[Tr. 1613] A. I don't recall any such statement by any one. I know they did not grant authority to T.O.C. to represent them in bargaining.

Q. (By Mr. Prael) Would you proceed now?

A. On the same page I find I misspoke myself in relationship to U.S. Plywood's final agreement reached in 1961. That agreement did not call for them, U.S. Plywood Company, to participate in a joint committee of T.O.C. for uniform contract purposes. Their agreement related only to their company.

Q. Let me find the place.

Trial Examiner: In the paragraph starting, "In the case of U.S. Plywood"?

The Witness: Yes, sir.

Trial Examiner: Off the record.

(Discussion off the record.)

Trial Examiner: On the record.

The witness has indicated that on page 3, seven lines from the bottom, the words, "and U.S. Plywood" were included erroneously, is that right?

The Witness: Yes, they were.

A. (Continuing) Also on the same page and in the same paragraph, the last sentence, I believe, the statement states, "However, these Committees have never functioned with the exception of a couple of meetings with the Timber Operators Council Committee." That is not entirely correct as there had been a meeting or meetings with Weyerhaeuser Company.

[Tr. 1614] On page 7, in the last paragraph, it is my recollection that Mr. Wyatt told me in the early February meeting, that there were certain items which their company wished to reserve for local company negotiations and not at a later date.

On page 9, about the middle of the page, beginning with the sentence which starts, "after approximately a day and a half," a day and a half is in error. It should be "after approximately three days."

Trial Examiner: What line is that? Oh, I see it. The line beginning, "various branches of the Company"?

The Witness: Yes.

A. (Continuing) I believe that is all the corrections that I would make at this time after rather brief reading.

Q. (By Mr. Prael) Mr. Nelson, yesterday you testified, I will show you the questions and answer in the transcript, page 1551. I think your counsel, Mr. Roll, was asking you these questions.

"Q. Now, directing your attention to, let's say the ten years immediately preceding—

Mr. Byrholdt (interrupting): What line?

Mr. Prael: Line 12.

Q. (Continuing)

"Q. Now, directing your attention to, let's say the ten years immediately preceding 1963, or say from 1950 or '55 up to 1963, has there been any history of bargaining in the [Tr. 1615] Northwest Lumber Industry on any unit basis other than single company unit, single plant, single company unit?"

A. None that I know anything about."

Q. Do you recall that? Is that your present recollection?

A. Yes, sir.

Q. Are there any contracts between the IWA and any employers that cover a bargaining unit broader than a single plant or a single company?"

A. There are none in the IWA and elsewhere that I know of.

Q. Have there ever been any?

A. Yes, there has.

Q. And when?

A. Do you mean the period of years?

Q. Yes, time.

A. Well, it commenced prior to the time of the formation of the IWA. If my recollection is right, the first such agreement that I know of commenced in the year 1936 and continued, and the year I am not certain, into the late forties would be my best recollection.

Q. Now, when you say it commenced, the contract commenced before IWA?

A. Yes, it did.

Q. I am talking about contract with IWA. When?

A. It would have commenced in 1937.

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[Tr. 1616] Q. (By Mr. Prael) Do you recall more than one contract which IWA had covering a broader bargaining unit than a single plant or single company?

A. If I understand your question, a single contract covering more than one employer or one operation?

Q. Yes. Were there more than one contract of that character entered into by IWA?

A. There has been several similar contracts covering several companies signed individually by each of the companies.

Q. But they were negotiated at one time, is that correct?

A. At least in one instance.

Q. What instance was that?

A. The Columbia Basin Sawmill Association.

Q. Was there one time that Columbia Loggers Association as well?

A. That is the one I previously referred to. You didn't ask me the name.

Q. I see. What kind of contracts were entered into with the Columbia Basin Loggers Association, that is, between that group or that Association and IWA?

A. There was a single contract entered into between the Columbia Basin Loggers Association as signers on behalf of a listed group of companies and signed by the Columbia Basin District Council No. V in behalf of a listed number of affiliated unions.

[Tr. 1617] Q. You were president of that District V at that time, is that right?

A. I became president some years after this contract went into existence, yes.

Q. And that contract covering a multiple group of employers was entered into from time to time over a period of years, isn't that right?

A. Yes, it was.

Q. Didn't it continue until the Columbia Basin Loggers Association was dissolved?

A. Yes, it did.

Q. I'm suggesting to you, isn't it a fact, the Columbia Basin Loggers Association was not dissolved until 1958?

A. Frankly I don't remember. If there is evidence that was the year—

Q. (Interrupting) I just want to get your recollection.

A. Columbia Basin Loggers were dissolved.

Q. It continued until they were dissolved?

A. That is correct.

Q. Well, you referred to the fact that this occurred in the late forties and I am suggesting it was more recently or on or about 1958.

A. And you may be right. I just don't recall it.

Q. It may be that though. But that was a contract for a multi employer group, isn't that right?

[Tr. 1618] A. That was a contract for a multi employer group and we termed it a multi unit bargaining group.

Q. In addition to that you mentioned something else, negotiations with the Columbia Basin Sawmill Association. That was different, is that right?

A. Yes, it was.

Q. Was that negotiation conducted with this District V you have testified about also?

A. Representatives of District V assisted the local unions as a group to negotiate with Columbia Basin Sawmills.

Q. Did you participate in negotiations or with this multi employer group known as Columbia Basin Loggers Association?

A. When, sir?

Q. Well, at any time.

A. Yes.

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Q. (By Mr. Prael) Did District V negotiate with an Association by the name of Columbia Basin Sawmill Association with capitals?

A. Yes, they did.

Q. Did they also negotiate with an Association of employers with the name Columbia Loggers Association, capitals?

A. Columbia Basin Loggers Association.

Q. Columbia Basin Loggers Association, that was the name of the [Tr. 1619] Association?

A. Yes.

Q. As I understand from time to time a union entered into contracts covering the employers included in the Association known as Columbia Basin Loggers Association. Have I got it straight now?

A. You lost me in that first part.

Q. From time to time the union entered into a contract with Columbia Basin Loggers Association covering the employees of employers who were members of a part of that Association?

A. Yes, they did.

Q. How many employer members were covered by these contracts or included in these contracts, how many companies?

A. It is hard to answer because as loggers come and go they would be one time, they would be maybe 40 companies by name and by the time you got around to revise the contract they would be numbers of new ones and re-

placing those who had discontinued so the number is real indefinite.

Q. The number varied?

A. Real indefinite

Q. It was from time to time more than 20 and less than 100 in that neighborhood?

A. I think in the general area it would range from 50 down to, well I think when they dissolved, it may have been down to even less than 10 as member companies but I am not certain.

[Tr. 1620] Q. Do you recall how many employees were represented by IWA?

A. Again, that varied as employers varied. There were times when I am sure there were in excess of 4,000 and there were considerably less than that, of course, as it was dissolved.

I might add as I have thought of the time of dissolving, it would have been in the '50's. The year I am still not sure.

Q. Mr. Nelson, you testified in this proceeding, I believe, the testimony appears on 1445 and 46. I will show you the testimony. The question begins on line 21.

"Q. Did you thereafter have any occasion to talk with Mr. Wyatt again about the matter that was raised on February 18, Mr. Nelson?

"A. Yes. I think the first time I talked to Mr. Wyatt following the February 18 meeting about the subject matter of forming a new association was on the telephone on April 12.

"Q. April 12, 1963?

"A. Yes."

Is that your present recollection?

A. Yes, it is.

Q. You had no further conversation with Mr. Wyatt between the meeting of February 18 and the telephone call of April 12, 1963?

Mr. Byrholdt: Relative to the formation of a new association?

Mr. Prael: That's right, relative to the forming of a new [Tr. 1621] association.

A. That's correct.

.

Q. (By Mr. Prael) Mr. Nelson, you testified on Page 1585, line 11, and he refers to Mr. Wyatt, you said:

"Q. (By Mr. Prael) He never talked to you about the possibility of forming an association before February 18?"

Your answer there was no, sir. What did you mean by no, sir, he did not or that he did?

A. I meant that he did not.

Q. Is it your present recollection that Mr. Wyatt did not talk to you about the possibility of formation of an association before February 18, is that correct?

A. That's correct.

Trial Examiner: Any association, or the Association involved here?

The Witness: Any association.

Q. (By Mr. Prael) I will show you R-396, your statement to the NLRB, and call your attention to Page 7, paragraph beginning just below the middle. Now, the first sentence of that, and I think you referred to this paragraph in making some corrections this morning, the first part says, "Now, as to the [Tr. 1622] negotiations in 1963, when the Association was called the Big Six, sometime early in the year 1963, I was contacted by Mr. Lowry Wyatt and asked my views as to the practicality of them (meaning Weyerhaeuser, as I understood it) attempting to get together with some of the other larger employers and see if they could form some joint bargaining. I told him that I thought it was a good idea."

What does that refer to? Does that refer to February 18?

A. Yes, it does.

Q. The next sentence reads:

"Sometime later, in discussing the matter further with me, he raised the question there would be certain items that his company, that their company would not be willing to delegate to any joint committee were they successful in establishing such a committee, and wanted to know if that would create any problems insofar as our union was concerned. At the same time Mr. Wyatt also raised the question of Weyerhaeuser Company being able to negotiate the matter, et cetera."

Now, what time does that refer to? I realize you said this morning that the statements about reservations was made at the February 18 meeting. When did this further conversation take place which says something about sometime later?

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Q. (By Mr. Prael) What is the answer to my question?

[Tr. 1623] A. May I have the question?

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A. It is my recollection that this discussion took place on February 18, the meeting which I testified to.

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Q. (By Mr. Prael) Mr. Nelson, the first sentence in that paragraph refers to an occasion when Mr. Wyatt contacted you. You have identified that date as February 18, 1963. The next sentence begins "sometime later." When later does that next sentence refer to?

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[Tr. 1624] The Witness: There was not a second meeting. This discussion—

Trial Examiner (interrupting): Appearing in the last five lines on Page 7?

The Witness: Yes.

(Continuing) —took place between I and Mr. Wyatt at the February 18 meeting.

Q. (By Mr. Prael) Now, isn't it a fact—did you hear Wyatt testify?

A. Yes, I heard Mr. Wyatt testify.

Q. You heard him testify that on February 18 he discussed this matter with you and referred to the reservations of certain items. Do you agree with him that that happened on February 18? Isn't that right?

[Tr. 1625] A. I don't know whether I am agreeing with him or disagreeing. I met with him on February 18 and we discussed with him his ideas of forming an association.

Q. And that is the meeting referred to in the third sentence in the paragraph at the bottom of Page 7, isn't that correct?

A. Yes.

Q. I am suggesting to you, as Mr. Wyatt testified, that the first sentence in that paragraph relates to a meeting he had with you on December 27, 1962. You heard him testify about that meeting, didn't you?

A. I heard him testify that there was a meeting on December 27, 1962.

Q. And if the material after sometime later relates to a meeting you had on February 18, 1963, I am suggesting to you that the sentence before it, which says there was an earlier meeting, confirms that testimony that there was an earlier meeting or discussion and I will ask if that doesn't refresh your recollection that in fact there was a discussion on or about December 27, 1962, as Mr. Wyatt testified?

Mr. Byrholdt: A discussion of what?

Mr. Prael: A new association.

A. No, it does not. After hearing Mr. Wyatt testify I likewise searched my recollection. I have nothing, either in memory or otherwise that indicates I met him on December 27, [Tr. 1626] 1962.

Q. (By Mr. Prael) And have you any recollection of having met with him about that time, or prior to February 18, more particularly?

A. No, I do not, on this subject.

Q. On this subject?

A. For Mr. Wyatt and I to meet was not unusual.

.

Q. (By Mr. Prael) Now, what were the items referred to in the conversation of February 18, 1963, with Mr. Wyatt that the company was interested in reserving, did you say? What were the items?

[Tr. 1627] A. As I recall the items mentioned by Mr. Wyatt at the 18th was pension and union security.

Q. And I take it you agreed with him that it would be just as well to reserve those items, is that right?

A. I believe his question was if they were reserved did I see where it would create any undue problem and I responded and told him I didn't see where it would, or words to that effect.

[Tr. 1628] Q. Did I understand you also told Mr. McMahon of St. Regis that you saw no problem in reserving from Association bargaining in the matter of pensions, is that correct?

A. Yes, I did, on the telephone.

Q. So far as your union was concerned there was no problem about reservations of pensions for separate negotiations, is that right?

A. As far as I was concerned. I was only being asked for a personal opinion.

Q. Was the matter of health and welfare similarly discussed at that February 18 meeting?

A. I don't recall that it was, but I would not say definitely that it was not.

Q. Was the matter of union security mentioned on that occasion?

A. Yes, I have already said that it was.

Q. And you saw no problem because of the reservation of the union security question for separate handling?

A. That is what I told Mr. Wyatt.

Q. So did you tell him anything different when you finally met on April 24?

A. No, we did not.

Q. That is true regarding pension, health and welfare, and union security, is that right, on April 24?

A. Well, that is true on pensions and union security. There [Tr. 1629] was some different discussion in relationship to health and welfare.

Q. On April 24?

A. On April 24.

Q. What was the discussion on April 24 regarding that?

A. Health and welfare was a hodgepodge in this industry. There was openings on health and welfare by local unions specifically in 1963 and health and welfare problems held over from 1961. As I recall, the discussion was that the health and welfares would be negotiated at a different level than the Association level.

Q. That hodgepodge is more or less described in your statement to the Board on Pages 6 and 7, isn't that about right?

A. I referred to it. Without looking I don't know the page.

Q. For the purpose of the record, would you look at that. I am not disagreeing with you on this point. It is a rather complicated thing. On page 6, from about the middle of that page on to page 7, it describes the situation regarding the various trusts and so forth, is that right?

A. Yes.

Q. That is what you have reference to?

A. It is a general outline of the hodgepodge.

Trial Examiner: I want to get straight on one thing here. The witness indicated that there was a discussion about that negotiating of health and welfare on the different levels. I [Tr. 1630] don't quite understand whether he is saying it was agreed or that there was merely talk about it or there was talk on one side and not on the other. What was the situation?

The Witness: It was agreed that health and welfare would be discussed at the other levels where the previous bargaining authorities existed.

Q. (By Mr. Prael) That was referring to certain arrangements for negotiations on trusts to which people belonged or separately whatever the case may be, isn't that right?

A. Well, briefly, it referred to the three companies which were part of the T.O.C. settlement held over from '61, and it referred to the Rayonier Company and at least one of their local union openings who had delegated that opening for '63 to T.O.C. and there may have been others.

Q. Did this have to do with the Forrest Products Trust?

A. Part of it.

Q. And was it agreed because of complexities of the situation that it would be better not to handle it in this Association bargaining?

A. I don't know whether we agreed that it would not be better. We agreed we would handle it elsewhere or we would try to.

Q. I see. This left the parties on both sides of the union and companies to carry out their previous agreements and arrangements regarding health and welfare? [Tr. 1631] A. Yes.

Q. Regarding union security, as I understand the record shows Weyerhaeuser Company had an agreement with your union I believe, and it is in evidence, R-369, having to do with an agency shop.

Mr. Byrholdt: May the witness be shown the exhibit he is referring to.

Q. (By Mr. Prael) I will show you R-369, which is in evidence, and I believe it bears your signature. This is an agreement entered into June 22, 1962, providing for agency shop, Weyerhaeuser Company in certain events. That agreement was in effect at the time of these discussions with Mr. Wyatt regarding the formation of a new Association and also, as a matter of fact, at the time the Association was formed, is that right?

A. This agreement was in effect but agency shop was not in effect.

Q. Right and subsequently that agreement was carried out, I take it, referring to R-369?

A. Well, subsequently we concluded the work resulting from this agreement and embodied into another signed agreement an agency shop agreement.

Q. Mr. Nelson, I will show you a question which you answered yesterday on Page 1554. The question was asked by Mr. Roll, starting on line 7, Page 1554:

"Q. At any time during the course of the negotiations [Tr. 1632] from their commencement on April 24, did Mr. Wyatt or any member of the Big Six ever advise you that the Big Six were negotiating as a separate multi-employer bargaining unit?" After some objection you gave the answer no.

A. Correct.

Q. Now, at any time during the course of the negotiations, from their commencement on April 24, did Mr. Wyatt or any member of the Big Six ever advise you that the Association was negotiating as a separate multi-employer bargaining group?

Trial Examiner: I don't quite understand the meaning of that word separate.

Q. (By Mr. Prael) Let me withdraw separate, as a multi-employer group.

A. Mr. Wyatt or any member of the Association?

Q. Yes, advise you that the Association were negotiating as a multi-employer group.

A. They advised us in letters that they were a multi-employer association, or some similar wording, about April 17 or 18 or 19.

Q. I will show you R-205, are you referring to a letter such as this one addressed to you on April 22, 1963, which begins "This is to advise you that the undersigned company is a member of a voluntary multi-employer association herein called The Association, comprised of the following named companies", are you referring to that letter?

[Tr. 1633] A. Yes, I am.

Q. And a similar letter from Crown Zellerbach and the other members of the Association, is that right?

A. That's correct.

Q. Now, on what other occasion did Mr. Wyatt or any member or representative of the Association advise you that the Association was negotiating as a multi-employer group?

Mr. Byrholdt: We would like the dates.

Q. (By Mr. Prael) From the first day of the Association up until the end of August 1962.

Mr. Byrholdt: Are you talking from April 24 on?

Mr. Prael: I am—well, I will make it from April 1 on.

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[Tr. 1638] Mr. Prael: Essentially that is correct. What I have in mind, and maybe this is agreeable. Two questions, at least, [Tr. 1639] were asked, and I have reference to the questions appearing on Pages 1552 and 1554 of the transcript, two questions were asked of this witness regarding whether or not the question of a multi-employer bargaining unit—I underline the unit—was raised, whether reference had been made as to a separate multi-employer bargaining unit.

Trial Examiner: I can see how you must have understood the question there. To me, at the time, the question meant "did anyone say anything specifically about the subject of unit."

Mr. Prael: Yes. I just want to be sure that the witness understood the question the same way in giving the answer that he did. That is all I am concerned about, that was the only purpose of my examination.

Trial Examiner: Do you recall the question, Mr. Nelson?

The Witness: I believe so.

Trial Examiner: Your answer to that question was no. Now, in answering that, was your understanding of the question the same as mine, or did you have a different understanding?

The Witness: Substantially the same as yours. To my recollection the word "unit" was never used or raised by anyone.

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[Tr. 1640] Q. (By Mr. Prael) You were asked, Mr. Nelson, and I will show you the page, and I ask you if you will read the following:

"At any time during the course of the negotiations from there commencement on April 24, did Mr. Wyatt or any member—

Trial Examiner (interrupting): I think that t-h-e-r-e should be t-h-e-i-r. I will correct Page 1554, line 8, to [Tr. 1641] change the spelling of "there" to t-h-e-i-r.

Q. (By Mr. Prael) I will read the question.

"At any time during the course of negotiations from their commencement on April 24, did Mr. Wyatt or any member of the Big Six ever advise you that the Big Six were negotiating as a separate multi-employer bargaining unit?"

Your answer to that question was no. Do you recall that testimony?

A. Yes, I do.

Q. I will ask you another question. At any time during the course of the negotiations from their commencement on April 24, did Mr. Wyatt or any member of the Big Six

ever advise you that the Big Six were negotiating as a multi-employer group?

A. I don't believe in those words; he did not.

Q. In what words did he advise you of that?

A. In the opening of the meeting of the 24th, Mr. Wyatt repeated substantially the contents of the letter which was sent to the union in the middle of April, announcing the formation of an association.

Q. Is that all he said?

A. No, that isn't all he said.

Q. What did he say in announcing to you that the Big Six were negotiating as a multi-employer group? What did he say on April 24?

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[Tr. 1642] A. Mr. Wyatt said that the six companies were there and representatives of the Big Six were there and they had just recently formed a new association which was too new yet to be named and that the association had the authority to complete a binding agreement on all those subject matters which they have been authorized to negotiate on.

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[Tr. 1643] Trial Examiner: With respect to other conversations you may have had, did Mr. Wyatt ever tell you the same thing, in substance?

The Witness: Yes.

Q. (By Mr. Prael) When?

A. Well, I have got to get some dates in order. I believe in the June 27 meeting, if my date is correct.

Q. When else? Any other meetings?

A. He referred to the multi-employer association in the [Tr. 1644] August 13 meeting and particularly in the hallway during that meeting. That is the only ones I recall.

Q. He told you on July 15, did he?

Mr. Roll: Told him what?

Mr. Prael: That these—

Q. (By Mr. Prael) Do you understand my question?

A. In the July 15 meeting he referred to them, to the employers, as a multi association.

Q. He told you that is the only way he was bargaining, isn't that right?

A. He handed us a written statement.

Q. Well, he told you that that was the only way the Association was bargaining?

Mr. Byrholdt: On what day?

Mr. Prael: July 15.

A. I don't recall those exact words. We exchanged statements of position and we agreed that right or wrong the positions were self-serving and no one was bound by each other's positions.

Q. (By Mr. Prael) Didn't Mr. Wyatt tell you that they were bargaining as a multi-employer association and no other way, or words to that effect?

A. Words to that effect, yes.

Mr. Byrholdt: That was on July 15 you were referring to?

Q. (By Mr. Prael) And on August 13 you mentioned July 15, on [Tr. 1645] August 13 and July 15. Now, were there any other occasions?

A. Any other occasions where the words were used?

Q. Where Mr. Wyatt told you, in effect, that the Big Six were negotiating as a multi-employer group, whether the word group was used or some other word.

A. I don't recall Mr. Wyatt making any reference to multi-employer group, unit, association, or any other description other than the ones I have related to you. There were others who did make reference.

Q. Now, Mr. Nelson, I will call your attention to another question asked you by your counsel, Mr. Roll, beginning on Page 1554:

"Q. (By Mr. Roll) Mr. Nelson, from your knowledge and your experience as a representative of IWA for the periods of time that you have so testified, did Mr. Wyatt or the Big Six make any statement or engage in any conduct that caused you to believe that the Big Six were negotiating on any unit different than had been the customary procedure in past negotiations under T.O.C. or

any other of the Association multi-employer associations that you have testified concerning it?"

Your answer was no, do you recall that testimony?

A. Yes, I do.

Q. You understood the question when it was asked?

A. I think so.

Q. Now, the fact that from the time you began negotiating on [Tr. 1646] April 24 with the Association you knew that you were negotiating on a different basis with the Association than you had been negotiating with the T.O.C., isn't that right?

A. With one exception.

Q. Is that the exception stated in the last paragraph of the statement to the Board, which is R-396?

A. Yes.

Q. Your recollections on these facts are as you wrote to the Board on July 17, 1963, and referring to the last paragraph on Page 12 of that statement, is that right?

A. That is right.

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Q. (By Mr. Prael) Mr. Nelson, I will show you what has been marked as R-353. Would you read the first paragraph of that, please?

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[Tr. 1647] Q. (By Mr. Prael) I have asked the witness to read the first paragraph. Mr. Nelson, does that refresh your recollection as to who was at that meeting? You testified there was such a meeting.

A. I testified we met, yes.

Q. Does that refresh your recollection in any respect as to who was at the meeting?

A. No, no different than what I have already testified to.

Q. I understood you to testify, and I may be in error, but I believe the record shows you testified that you were present with Mr. Walker and Mr. Wyatt and no one else. I may be mistaken.

A. No, I think that is my testimony.

Q. Oh, it is. But Mr. Gunvaldson was not present at the meeting?

[Tr. 1648] A. I have no recollection of him being there, but he may have been.

Q. He may have been there. That is the reason I asked you to look at the notes. Do those notes refresh your recollection in any respect as to whether Mr. Gunvaldson was or was not there?

A. No, they do not.

Q. He may have been there or he may not?

A. We had a few other negotiating meetings going on at that time.

Q. I realize that, but I am trying to get your best recollection.

A. I have no recollection of Mr. Gunvaldson being there.

Trial Examiner: Let me fix the record up here, please. R-353 has not been received in evidence for all relevant purposes here and I think for that reason that when the reporter puts down that the witness was asked to read the first paragraph that the exact language of the first paragraph should be quoted in the record.

Mr. Prael: I will be glad to read it. R-353, the opening paragraph begins as follows:

"Date: June 18, 1963

"The meeting was held in the offices of the Federal Mediation and Conciliation Service in the Courthouse, Broadway and Main. The meeting was called by Mr. George Walker, Commissioner [Tr. 1649] of the Mediation and Conciliation Service. Other persons present were Mr. Harvey Nelson and Mr. Gundvaldson, representing the International Woodworkers of America, and Mr. Lowry Wyatt, representing the employer Association. The meeting was called to order by Mr. Walker at 8:10 a.m."

Q. (By Mr. Prael) Now, would you say it is true that at that meeting Mr. Walker made an opening statement relative to the seriousness of the dispute, do you recall? Did he open the meeting that way?

A. Yes, I think I testified to it, yes, sir.

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[Tr. 1650] Q. (By Mr. Prael) Mr. Nelson, you have just read R-353. Is that a fair representation of the conference that was held on June 18, 1963, at which you were present at least with Mr. George Walker and Mr. Lowry Wyatt regarding whether Mr. Gundvaldson was there or not?

A. In my respects it don't coincide with my recollections.

Q. Will you tell me what respects it doesn't coincide with your recollections?

A. As I read it there was many of them.

Q. Would you point out in what respect it does not coincide with your recollection?

A. Again, as I hurriedly looked at it, I don't have any recollection of Mr. Walker's statement on page 2 in reference to customarily charges are dropped by other parties.

Q. You are referring to the paragraph on page 2 which reads as follows: "Mr. Walker replied to this statement that it was his experience that when disputes of this kind were settled, any and all charges filed by either party against the other are customarily dropped or withdrawn." That follows the statement regarding the pending unfair labor practice. Is that what you are referring?

A. And the following statement as well.

Q. "Mr. Walker commented on this point at some length and in some detail." You do not recall that, is that right?

A. No. I do not.

[Tr. 1651] Q. Is it your recollection that did not occur or is it that you do not recall?

A. I don't remember hearing it.

Q. I take it your answer is that you do not recall or do not remember it now?

Mr. Byrholdt: He answered.

Trial Examiner: What you are asking him is, I think, do you think you would have remembered it if it had happened or if it had been said?

The Witness: Oh, I think so. On the other hand I wouldn't pretend I would recite each word that was stated in that kind of a session.

O. (By Mr. Prael) What else is not in accordance with your recollection?

A. Well, if it is details, of course, I turn to the next page and I found——

Trial Examiner (interrupting): Read what is stated there, if you will, before you answer so we can get that in the record.

The Witness: Says, "He agreed that it was catastrophic and something that should just not be happening."

Q. (By Mr. Prael) The "he" refers to yourself. Mr. Nelson.

A. I would presume so.

Q. The previous statement says that, Mr. Nelson.

A. I have no recollection of that designation of "catastrophic". I agreed that it was unfortunate.

[Tr. 1652] Q. You may have said it was unfortunate but not catastrophic.

A. Further on it says, "He admitted there had been some misinterpretation of this among the rank and file for which he was inclined to blame the employers." My recollection is that I blamed the employers.

Q. I see. You would strike the word "inclined" then?

Mr. Byrholdt: Referring to what? I think the record shows that.

Mr. Prael: The sentence he just read on page 3.

A. The next sentence I do not recall that. "He indicated that he personally understood the nature and the limitations of the employer proposal," I just don't recall any such remarks at all. He was talking about the hours of labor. I think as it went on it says, "but further insisted that it had not been made clear across the bargaining table." I think if the word "not" was out at that that portion of the statement would be correct.

I think the next sentence, "At any rate, Nelson indicated that this was a most important and difficult point, and would, no doubt, have to be either withdrawn, hung on the hook for further decision, or substantially modified before settlement possibilities could be considered real." I think essentially this statement is correct. It is not complete as I am sure that during the process of the discussion of this, hours of labor likewise referred to the U.S. Plywood hours of labor local openings, local company openings.

Turning to the next page, "Mr. Nelson indicated that a rock- [Tr. 1653] bottom position on wages would be $12\frac{1}{2}\text{¢}$ per hour across the board, plus 2¢ for bracket adjustments in the first year, and $7\frac{1}{2}\text{¢}$ across the board in each of the second and third years. Thus, a total wage package over the three years of $29\frac{1}{2}\text{¢}$ per hours."

Q. You are quoting from the sentence finally with respect to the wage schedule, is that correct?

A. That is correct. Those figures cannot be correct. . . .

Q. Do you remember what the figures were?

Mr. Byrholdt: Let him finish.

A. (Continuing) for the reason that the position of our union and our negotiating committee was at that date of June 18, that we would not settle for a package settlement over three years for less than $33\frac{1}{2}\text{¢}$ an hour.

The next paragraph, "Wyatt commented to Nelson that it appeared his rock-bottom price had gone up some 2¢ since the beginning of the strike." Again, I do not recall the 2¢ figure. I do recall that Mr. Wyatt made a comment that it appeared our price had gone up and I told him it had not gone up. If anything, it had gone down.

Q. You agree with the second sentence that, "Nelson replied that he didn't think so."?

A. Well, actually our position hadn't changed.

Q. I take it you expressed those views at that meeting?

A. Mr. Byrholdt: The view he just related?

[Tr. 1654] Mr. Prael: Yes.

Mr. Byrholdt: Yes, of course.

Q. (By Mr. Prael) Is that right, Mr. Nelson?

A. The views I just read?

Q. That the views stated that you told Mr. Wyatt that the union's position had not changed on the wage issue, is that right?

A. I told him the union's position hadn't changed.

Q. That is right.

A. (Continuing) "Wyatt said that he might well be mistaken in his recollection, but had thought that Nelson had at one time expressed himself as considering 10¢ across the board the first year, plus the brackets followed by two $7\frac{1}{2}\text{¢}$ years as a rock-bottom position." Again, I

am sure that the 10¢ figure has to be the wrong figure. I could not have used it.

Q. Did Mr. Wyatt use it? The statement says Mr. Wyatt made that statement, not you.

A. I don't recall that he did use that figure.

Q. You don't recall Mr. Wyatt using that figure but he did say something in the nature of this sentence, is that right?

A. Yes, he made a statement similar to this.

Q. The figure you feel is wrong?

A. Yes, I do.

The following sentence I think he did make.

[Tr. 1655] Trial Examiner: We don't know that unless you read it in.

Q. (By Mr. Prael) "Wyatt then indicated that it really was not a significant point, since the employers are not prepared to make a move into either one of those cost areas."

A. Yes.

Q. That you agree with. Now, take the next paragraph.

A. The next paragraph is essentially correct.

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(By Mr. Prael) Mr. Nelson, for the purpose of the record, the paragraph you said was correct was the one beginning on the bottom of page 4 continuing over to the top of page 5?

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[Tr. 1666] A. That paragraph is substantially correct.

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The Witness: Yes. The next paragraph deals again with a subject matter of hours of labor. I don't recall the discussion as is stated here. I recall discussions relative to the opposing opinion and positions in relationship to the hours of [Tr. 1667] labor but I certainly don't recall these words as such.

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Q. (By Mr. Prael) As I understand regarding the full paragraph on page 5, is it fair to say, Mr. Nelson, that you recall discussing the subjects therein referred to but not the statements made and the words expressed in that paragraph, is that right?

[Tr. 1668] A. The first two lines, "There followed then some considerable discussion between Wyatt and Nelson on the merits of the 'hours of labor'", I agree.

Q. What about the rest of it?

A. I do not agree and I do not recall that the discussion was in the terms of the words that is here used.

Q. Now, let's take the next paragraph. It begins, "Wyatt asked Nelson if his position with respect to travel time and hours of labor was really saying that he would like to have them both placed in a study committee for report, and negotiation sometime during a three-year contract period. Do you recall that statement being made?

A. Yes, that or a similar one.

Q. And also the statement that your reply was "emphatically in the negative" on the top of page 6?

A. If that means no.

Q. Do you recall that? And the rest of the paragraph, I take it, you recall that fits with the no?

A. Well, I think we are probably dealing with words when he says they did not want to. I think it was more definite.

Q. You made it in stronger language, I take it. You are referring to the sentence which says they, that means the union, did not want to put your travel requests in the position of being contingent on the settlement of hours of labor and vice versa. You said that but in stronger language?

[Tr. 1669] A. I think I told them we were not willing to do it.

Q. The next paragraph, did Mr. Wyatt then say, "he had no move he could make" or words to that effect?

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A. Yes, I recall comments being made in this form or another by Mr. Wyatt. Again, as you get down to the

last sentence, however, as he is again expressing my statement in regard to minimums again I am sure I could not have used a minimum of 27½¢.

Q. Must have been some other figure?

A. I am sure it was a higher figure.

Q. Aside from the figure, is the gist of what is said in that paragraph essentially as you remember it?

A. I am looking for the descriptive word. Mr. Wyatt did express a position of his in the vein in which this paragraph is written.

Q. Now, going to the next paragraph, "Mr. Walker then asked as to the desirability of setting up bargaining meetings." I am referring to the last paragraph on page 6 and continuing on [Tr. 1670] page 7. Is that essentially correct without reference to particular words, just to subject matter in general?

A. Yes, in substance.

Q. Do you remember statements being made of that nature?

Trial Examiner: What was that last question?

Q. (By Mr. Prael) You said it was substantially correct?

A. Yes.

Q. Let's go to the next paragraph. Begins, "Nelson then pointed out the I.W.A. bargaining schedule for the future," and reading on that rest of page 7 and continuing on to page 8, are the statements made in R-353 substantially correct?

Mr. Byrholdt: In what paragraphs?

Mr. Prael: Beginning on top of page 7 and continuing onto page 8.

A. Let me say, referring to the top of the paragraph, I do not recall reciting the negotiating sessions, however, I may have done so in discussing a possible open date for these negotiations to be resumed. At this moment I don't know whether these dates here are the dates in which such companies met in negotiations. I do recall that we discussed a possible 21 of June date and I do recall that we ultimately agreed to a 27 of June date when the Conciliation Service would call a meeting.

Q. Is it substantially correct or are there substantial errors in it?

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[Tr. 1671] A. Let me say that in all probability I did refer to the Simpson negotiations as the I.W.A. and Simpsons were working closely towards a settlement agreement. I do recall telling Mr. Wyatt that I would prefer reaching a settlement if possible with the new association and for the reasons that if the Big Six Companies settled, it would establish a pattern through the industry for settlements elsewhere. I do not recall on page 8 telling Mr. Wyatt or anyone else that I would rather not reach a settlement with someone outside the association and I am sure I could not. I was working too hard to get settlements. I do recall making a comment that if at all possible we should attempt to find a way to resolve the dispute before the Fourth of July Holiday was over. After that time in my opinion, the situation would get firmer.

Q. (By Mr. Prael) You are referring, now, to the sentence at the end of the paragraph which reads, "Nelson also indicated that this situation should not be allowed to continue beyond [Tr. 1672] the Fourth of July, because if it did, it was his feeling that it might then go along 'for a long time'."

A. Yes, that is the one I am referring to.

Q. Now, would you read the next paragraph and tell us in what respects you think it substantially is correct or if your recollection varies from what is said there, will you please tell us in what respects?

A. I think the paragraph is repetitious. My recollection is as Mr. Walker raised the question of a future meeting date that we first discussed, as I previously stated, possibly meeting on June 21 and after more discussion agreed to meet on the 27th of June.

Q. Was it also agreed that Mr. Viat should call the meeting?

A. No, it wasn't agreed that Mr. Viat would call the meeting. Mr. Viat's name was raised, either I raised it or Mr. Walker raised it.

Trial Examiner: Is he another conciliator?

The Witness: Yes, he is Regional Director, headquartered in San Francisco.

A. (Continuing) I think we all expressed opinions to Mr. Walker. By "all" I mean both I and Mr. Wyatt and Mr. Walker agreed that if it was of any value he would have Mr. Viat call a meeting and he had——

Q. (By Mr. Prael—interrupting): One minute. Mr. Via, V-i-a-t, who is the Regional Director of Conciliation, is that correct?

[Tr. 1673] A. Yes, and Mr. Walker, as I read the name Viat, Mr. Walker had in the opening of the meeting referred to Mr. Viat as his boss and his boss was putting pressure on him for him to do something to try and resolve the dispute in the lumber industry.

Q. Now, going to the next paragraph, it has reference to, I will read it, "At this point, Wyatt described to Nelson the very dangerous situation existing in some woods areas as the result of large amounts of blowdown concentrated in areas not readily accessible by existing roads." Was there a discussion substantially as stated in that paragraph? If not, please point out in what respects your recollections differ.

A. I do not recall that it was this meeting where Mr. Wyatt raised this question. Mr. Wyatt did raise the subject matter with me and it may have been at this meeting.

Trial Examiner: This is the subject of building access roads?

The Witness: Yes.

A. (Continuing) And in response to the question I not only answered it verbally and in, possibly, the letter which I believe is in evidence that went to IWA local unions over my signature. It probably helped me establish the date in which Mr. Wyatt raised the question with me. As I remember I wrote his question and wrote my answer.

Mr. Prael: I think I have seen the letter. Whether it is in evidence, I can't recall. I can't recall the number.
[Tr. 1674] A. The question was raised.

Q. (By Mr. Prael) It may or may not have been at this meeting.

A. It may or may not have been at this meeting. I did answer. I did report to the local unions that Mr. Wyatt had asked a question in relationship to returning some people to work. I believe my words were that I told him that they laid them off and they could put them back to work.

Q. Does this have anything to do with the struck companies?

A. He didn't ask for any such agreement and I am sure he wouldn't have got it if he had.

Q. Mr. Nelson, do I understand that the employees of the struck companies were not given leave by the union to build fire access roads during the strike, is that correct?

A. We were never asked to.

Q. That is for St. Regis and U.S. Plywood, is that right?

A. That's correct or if he was, I wasn't asked.

Q. Did you make any notes or have any minutes of the meeting of June 18?

A. No, I did not. Mr. Walker called the meeting. It was a confidential meeting.

Q. Did you keep notes of any of the other bargaining meetings with the Association? You did keep some and you turned those over to the Labor Board, is that correct?

A. That's correct.

Q. Did you turn all of them over to the Labor Board?
[Tr. 1675] A. Yes, I did.

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[Tr. 1676] Q. (By Mr. Prael) Mr. Nelson, I will show you Exhibit R 378, would you read that please.

Mr. Nelson, do you recognize that letter?

A. Yes.

Q. Mr. Arley Anderson is an officer, secretary-treasurer of the same Regional Council of which you are president?

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A. Yes.

Q. (By Mr. Prael) The second paragraph reads, "In order to make the Strike as effective as possible, this

being a letter of June 5, 1963, the second paragraph reads: "In order to make the Strike as effective as possible, the Negotiating Committee and the Executive Board have elected to Strike certain selected [Tr. 1677] Companies at first and then extend it from time to time as circumstances and good strategy dictates." Were you a member of the Executive Board that decided on that strategy?

A. I not only was, I am a member of the Executive Board.

Q. You also are a, I guess, Chairman of the Negotiating Committee?

A. Yes.

Q. And you held that position at the time that strategy was decided upon?

A. When you said that strategy, you mean the one referred to in this letter?

Q. Yes.

A. I held the position throughout the period of negotiations and this and other strategy was arrived at by the Negotiating Committee and the Executive Board. Mr. Anderson was not a member of the Negotiating Committee. He is a member of the Executive Board.

Q. He correctly states the strategy determined by the Negotiating Committee and Executive Board, is that right, as of that date on June 5?

A. Pretty accurately, yes.

Q. Calling your attention also to the statement in the letter, "We close by pointing out that this is a Strike to bring about an industry wide settlement. The method is only for strategic purposes." Is that correct?

[Tr. 1678] A. Yes.

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[Tr. 1679] Q. (By Mr. Prael) I will show you R 397, a letter on the letterhead of Western States Regional Council III, dated May 2, 1963. It appears to be a memorandum to all local unions from Harvey R. Nelson and I will ask you if you recognize it, Mr. Nelson.

A. Yes.

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Q. (By Mr. Prael) Mr. Nelson, was this memorandum prepared by you or at your direct and sent to the local unions on or about the date it bears May 2, 1963, reporting among other things on the negotiations then being conducted between the I.W.A. and the Association?

A. Yes.

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[Tr. 1682] Redirect examination.

Q. (By Mr. Byrholdt) Mr. Nelson, I will show you the exhibit marked Respondents' No. 396, which bears the date of July 17, 1963, that being a statement entitled bargaining history, et cetera. Will you tell me now the circumstances under which the statement was prepared?

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A. Well, the statement was prepared at the request of Mr. Roll on behalf of the Labor Board in my office and by the date that is on it, during the period while we were in negotiations throughout the Northwest Lumber Industry, and I dictated it in my office.

Q. (By Mr. Byrholdt) Were you assisted in any way in the preparation of that?

A. No. After some phone calls from Mr. Roll that the Board was asking for it, I finally found the time and took the time to dictate it on a recorder, a recording machine. My secretary typed it, stamped it with my signature with a rubber stamp and sent the copies on their way.

Q. Was it reviewed by anyone prior to its submission to the [Tr. 1683] National Labor Relations Board?

A. No.

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Q. (By Mr. Byrholdt) There is a reference therein to a strike, Mr. Nelson. Would you tell me, on or prior to that date, the date of the memorandum, June 5, 1963, approximately how many companies were struck in the industry.

A. On June 5 or prior?

Q. Yes.

A. There were two insofar as IWA was concerned.

Q. Was that the extent of the striking at that time?

A. On June 5, yes.

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Q. (By Mr. Byrholdt) Mr. Nelson, you conducted negotiations [Tr. 1684] in 1963 with the Timber Operators Council, did you?

A. Yes, I did. On behalf of our union, of course.

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[Tr. 1689] Q. (By Mr. Roll) Mr. Nelson, according to my notes, shortly after lunch Mr. Prael, in his cross-examination, asked you this question: "You knew the Association was different than T.O.C., didn't you?" Your response was yes, with one exception. Will you explain your answer, please?

A. Yes. I think there was also reference made to the last page of Respondents' Exhibit No. 396. My answer was that there was one difference between this Association and others as I set forth in this paragraph in my statement.

Q. What was that difference?

A. That this Association had the authority to reach a binding agreement for its members.

Q. Did you know, Mr. Nelson, whether or not this Association had authority, and if so, what?

A. I knew what the letter said and what Mr. Wyatt said when [Tr. 1690] the April 24 meeting opened.

Q. Did you know actually what authority the Association had?

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A. No, I did not.

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[Tr. 1691] Q. (By Mr. Roll) Mr. Nelson, did you at any time learn of the authority of the Association separately from that related to you either by Association

chairman or by the letters written by the secretary, Mr. Boddy, or the chairman, Mr. Wyatt?

[Tr. 1692] A. No.

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A. I lost the question.

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Q. (By Mr. Roll) Mr. Nelson, in the April 24 meeting, the first meeting which you had with the Association, did you learn whether the one exception to which you referred, and now I am referring specifically to the Association authority to bind its members, did you learn in that meeting whether the Association did or did not have such authority?

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[Tr. 1693] A. Yes.

Q. What did you learn and how?

A. As Mr. Wyatt completed his statement in regard to the formation of the Association he stated that the Association had authority to negotiate to a binding settlement on all subject matters which had previously been delegated to the Association. I immediately asked if that included the entire subject matter of hours of labor or as it related to U.S. Plywood, which I previously testified. I found out that through that negotiations and discussion he did not have the authority to bind U.S. Plywood on the hours of labor.

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[Tr. 1699] Q. (By Mr. Roll) Mr. Nelson, the Examiner made some inquiry of you concerning the relationship between IWA, the Columbia Basin Loggers Association, and the dates given when the Columbia Basin Loggers Association ceased to function, and at my request over the week-end, did you check and ascertain with more accuracy the dates in question?

A. Yes, I did.

Q. Going back originally to the Columbia Basin Loggers, will you tell the Examiner when you first came in contact with that organization?

A. When I first came in contact?

Q. Yes, was it formed when you assumed the presidency of the Council?

A. Yes, it was.

[Tr. 1700] Q. And that was Columbia District Council No. V?

A. That's correct.

Q. And what date was that?

A. That was in the month of February, or thereabouts, of 1942.

Q. Will you tell the Examiner, Mr. Nelson, how that contract was opened when you first commenced that negotiations with the Basin Loggers?

A. It was opened by the Columbia Basin Loggers Association for the Association and by the Columbia District Council for the union.

Q. In case of that Association, did each individual logging company make any contract openings?

A. No.

Q. Did any of the local unions make separate contract openings?

A. No.

Q. Do I understand that the only openings that took place were between the Association on behalf of its members, and the Council on behalf of its member unions?

A. That's right.

Q. Now, in the Columbia Basin Loggers Association, were there any instances where individual companies reserved to themselves certain areas of bargaining?

A. No.

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[Tr. 1701] Q. (By Mr. Roll) How long did that relationship between the Columbia Basin District Council and the Columbia Basin Loggers Association remain in effect where negotiations took place between those two parties?

A. Well, Columbia Basin Loggers commencing in about 1942 delegated their authority to L.I.R.C.

Q. Did L.I.R.C.—that is Lumber Industrial Relations Committee, is that correct?

A. Yes.

Q. Did L.I.R.C. have other employers as members for purposes of negotiation in addition to the Basin Loggers?

A. They represented other companies in negotiations.

Q. What was the basis upon which you negotiated with L.I.R.C., then, as a representative of Columbia Basin Loggers, how were those contracts concluded?

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A. They were concluded by Columbia Basin Loggers acting upon [Tr. 1702] L.I.R.C. recommendations.

Q. (By Mr. Roll) Now, in the case of openings of the contracts when L.I.R.C. represented the Columbia Basin Loggers who communicated the openings?

A. Columbia Basin Loggers.

Q. How long did that relationship continue in existence where Columbia Basin Loggers were represented by L.I.R.C. as the Basin's bargaining agreements with Columbia River District Council?

A. They continued up to 1958.

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Q. (By Mr. Roll) What was the last period of negotiations [Tr. 1703] Mr. Nelson, with Columbia Basin Loggers through L.I.R.C., do you recall the last date of negotiations, for whatever period of time the contract covered?

A. Well, I am just not certain of the years of negotiations. If we negotiated in 1957, it would have been that year.

Q. And in 1958 you negotiated in some other manner?

A. Yes.

Q. During the period when the NLRB conducted what was known as UA elections, are you familiar with that term and do you know what UA elections were?

A. Yes, I am.

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[Tr. 1710] Q. (By Mr. Roll) Mr. Nelson, referring you to the same exhibit and the same page and the first beginning paragraph which immediately follows the statement that you made to Mr. Wyatt, you referred to your telephone conversation with Mr. McMahon of St. Regis Paper Company concerning a reservation that be made relating to pensions, and according to your statement you advised Mr. McMahon the same as you had Mr. Wyatt, that you didn't see where it would create an insurmountable problem. Did you have a further discussion with Mr. McMahon relating to your willingness to grant his request for such a [Tr. 1711] reservation and your commitment that it would not create an insurmountable problem in your judgment?

A. Not that I recall, no.

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Q. (By Mr. Roll) Did you and Mr. Wyatt discuss this thing, Mr. Nelson?

A. I don't recall any details in the discussion.

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[Tr. 1712] Q. (By Mr. Roll) In your negotiations immediately prior to 1963, to wit, 1961, the last contract was negotiated, and which negotiations were conducted with TOC, had any member of Respondents here, the Big Six, in negotiating through TOC, had any of them made any reservations in your 1961 negotiations with TOC?

A. Yes.

Q. Had similar reservations been made by any of these same Big Six Respondents when you were negotiating with TOC's predecessor LIRC?

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[Tr. 1713] Q. (By Mr. Roll) Did any member of these Big Six Respondents negotiate with IWA through LIRC?

A. Yes.

Q. Did International Paper negotiate with IWA through LIRC?

A. It was either International Paper or Long-Bell Lumber Company.

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[Tr. 1714] Q. (By Mr. Roll) Mr. Nelson, directing your attention to what is in evidence as Respondents' Exhibit No. 330, which is a letter from U. S. Plywood on the signature of Frank Doherty, Industrial Relations Manager, California Division, dated April 18. Would you inspect that and state whether you can state the date that you received the U. S. Plywood April 18 letter? Do you recall, or is there any indication on that?

A. Yes, I remember the date we received it in my office.

Q. What date did you receive it?

A. April 22.

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Q. (By Mr. Roll) Handing you what has been marked for identification purposes as IWA Exhibit No. 4, would you inspect that, Mr. Nelson, and tell me whether you can identify it?

A. Yes, I can.

Q. State what the document is, please.

A. Well, it is a letter that was addressed to the IWA, Local 3-26, a copy which was sent to me, to my office in Portland, Oregon, from the United States Plywood, its Seattle Division.

[Tr. 1715] Q. Do you recall receiving the copy of that letter, Mr. Nelson?

A. Yes, I do.

Q. Do you know what date it was received? Does the letter bear a date stamp?

A. Yes, it does.

Q. What date does it bear?

A. April 22.

Q. Is that a stamp that is put on in your office on incoming mail?

A. Yes, it is.

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Q. (By Mr. Roll) Mr. Nelson, referring you again to Respondents' Exhibit No. 330, and directing your attention to the last page of that exhibit where U. S. Plywood sets forth certain operations, I will call your attention to the last operation listed on that page, to wit, the Seattle Plywood Plant. Will you state, please, whether IWA Exhibit No. 4 relates to the Seattle Plywood Plant and is the same operation referred to in Respondents' Exhibit No. 330?

[Tr. 1716] A. It is the same operation.

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Q. (By Mr. Roll) Respondents' Exhibit No. 4, Mr. Nelson, requests on the part of U. S. Plywood that IWA meet with the Seattle operations on May 7. Was—

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Q. (By Mr. Roll—continuing)—was a meeting scheduled pursuant to the April 18 letter of U. S. Plywood, Mr. Nelson, for negotiations with the Seattle plant?

A. I did not schedule one.

Q. You did not. Do you know whether the local union did?

A. No, I don't.

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[Tr. 1717] Q. (By Mr. Roll) If I understand your testimony correctly, you received both of those letters from U. S. Plywood in your office on the same day, is that right?

A. Yes, I did.

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[Tr. 1719] Q. (By Mr. Roll) On the morning, or on the day that you entered negotiations with the Big Six, April 24, 1963, and at the time that Mr. Wyatt made the statement to you that the Association, Big Six, could negotiate for, and the respective Big Six would be bound,

did you have these two letters of U. S. Plywood before you at that time?

A. Yes, I did.

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[Tr. 1722] Q. (By Mr. Roll) Incidentally, Mr. Nelson, with respect to R-330, does that show whether the local unions received a copy?

Mr. Prael: The document speaks for itself.

A. No, it does not.

Q. (By Mr. Roll) Do you know whether the local unions were provided with a copy?

A. I provided them with a copy sometime after April 22

Q. Do you know whether U. S. Plywood supplies a copy, if U. S. Plywood supplied a copy to the local union of its letter to you, R-330?

A. I am sure they did not, at least, no local union under prior arrangement with the locals to provide us with copies of all negotiating material, under this arrangement no local union provided me with any.

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[Tr. 1727] Q. (By Mr. Roll) Mr. Nelson, referring to the identical letters you received from each of the Big Six Companies bearing dates of April 17, wherein the Association was named as a bargaining agent and specifically certain reservations were set forth in those letters where the companies reserve certain items for separate bargaining, was there anything unusual in that procedure?

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A. No.

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[Tr. 1728] Q. (By Mr. Roll) Was there anything unusual, Mr. Nelson, or stated differently in the past, had individual companies met in the course of Association bargaining and been present in the course of negotiations

as actually participated in Association bargaining, and I am now referring to the Big Six Companies?

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A. I don't think in those specific words, no.

Q. (By Mr. Roll) In past negotiations between IWA and, let's say the TOC were individual companies of the Big Six present [Tr. 1729] and participating in negotiations?

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A. Yes, there were at different times representatives of some of the Big Six Companies who participated in negotiations in prior years with other associations.

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[Tr. 1730] Q. (By Mr. Roll) Mr. Nelson, referring you to what has been marked as IWA Exhibit No. 2 for purposes of identification, do you recognize that proposed exhibit?

A. Yes, I do.

Q. Will you state what it is?

A. It is a summary of the opening notices or copies of opening notices received in my office from all of the local unions who served opening notices on companies and opening notices which companies served on local unions.

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Q. (By Mr. Roll) Was the preparation of this booklet made at your request and under your direction?

A. It was made at my request.

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[Tr. 1731] Q. (By Mr. Roll) Mr. Nelson, will you relate the chain of authority in your office? Who is in charge of the Regional Office?

A. Well, I have general overall charge outside of those duties falling within the province of finances.

Q. Now, with reference to the preparation of this booklet, to whom did you issue the directive that the information be prepared and assembled?

A. I issued it to my own secretary.

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Q. (By Mr. Roll) What did you tell her to do?

A. I told her to make a summary sheet of each local union and each company within each local union summarizing the subject matters which were opened at any level by anybody as it [Tr. 1732] related to members of the Timber Operators Council and as it related to members of the Big Six.

Q. All right, now, following that Instruction, did you receive back the booklet or the information which is contained in the booklet now marked as IWA Exhibit No. 2 for identification?

A. Yes, I did.

Q. Before you received the booklet back did you observe either your secretary or anyone participating with her in assembling the information that is contained in the booklet?

A. Well, I observed them working with the material, with letters and material, certain letters was even brought to my attention as to how should they be identified. The subject matter when the opening notices were by themselves are hard to determine.

Q. After having received the information, will you describe the form in which you received it? How was it contained at that time?

A. I don't understand your question.

Q. Did you receive it in a booklet exactly as the one you have on your desk or was it in a different form of container?

A. It might have had a different color sheet on it or something.

Q. After having received the booklet, Mr. Nelson, did you have occasion to check any of the items contained in the booklet against any specific contracts?

[Tr. 1733] A. I had the occasion to check the reference here in some instances against the official opening notices of either a local union or a company.

Q. And when you say, "the reference here", are you referring to the reference contained in the booklet marked as IWA 4 for identification?

A. Yes, Exhibit 2.

Q. IWA 2 for identification.

To the extent that you have checked the booklet when the check was made necessary, have you found the booklet to be accurate?

A. Yes, I don't recall any checks I made that it was not accurate.

Q. In the course of negotiations in the various meetings from April 24 onward, did you have occasion to make reference to the information contained in the proposed Exhibit IWA 4?

A. Yes, I did.

Q. Was that a frequent reference, Mr. Nelson?

A. If I understand the meaning of the word frequent.

Q. Was it necessary for you to refer to this book in these matters in negotiations many times?

A. Yes, periodically.

Q. Did you make any reference to that book in the course of negotiations that you found to be incorrect?

A. No, I did not.

[Tr. 1734] Q. Now, when the booklet was returned to you, who returned it to you?

A. My secretary.

Q. Is that the same secretary that you gave the initial instructions to requesting the information he provided to you?

A. Yes, sir, it is.

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[Tr. 1737] Q. (By Mr. Roll) Mr. Nelson, I fail to see the amusing phase of this. If we are under oath and ascertaining the facts here and I would like to know, is the preparation of this material customary in yearly negotiations, Mr. Nelson?

A. I think only one previous year, Mr. Roll, and if I recall, it was 1961. I think, if I might explain that a little, [Tr. 1738] of course, our Regional Council—

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Recross-Examination.

Q. (By Mr. Prael) Mr. Nelson, I will show you IWA No. 4, which is the letter dated April 19, 1964, which has requested a meeting, suggested meeting, of the interested parties on May 7.

Mr. Roll: I can't hear you. Will you speak up.

Q. (By Mr. Prael) I am referring to IWA No. 4, which suggests a meeting between Local 3-26 of the Plywood Workers and the certain representatives of the U. S. Plywood Corporation on May 7. That had to do with negotiations on the local issues, did it not?

A. Local company, it had to do with openings made by the company for this branch.

Q. And it had to do with openings made by the union on this branch, both local openings, did it not?

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[Tr. 1739] A. I only know what the letter says and to me the letter is from the company asking the local unions to meet with them on their openings, on the company's openings.

Q. (By Mr. Prael) On the company's openings, local openings?

A. Yes, and my previous authority, I might point out, the local union had delegated the authority on company openings to our Regional Council.

Trial Examiner: On company local openings?

The Witness: Yes, by the notice in which local unions send to the company they authorize the Regional negotiating committee to represent them on all employer or employer-association openings.

Q. (By Mr. Prael) The local union had also served local openings, had it not?

[Tr. 1740] A. I believe they had.

Q. Do you recall that they served a local opening in this case relating to the rate shift?

A. No, from memory I don't know specifically, I don't recall their specific openings.

Q. I will show you General Counsel's Exhibit No. 34-B. This is already in evidence and this is a letter from this

same local to U. S. Plywood Corporated dated March 13, 1963. Do you recognize that as a request by the local to bargain with the local plant manager of U. S. Plywood on the duration of work shifts at that time, is that correct, isn't that what it is?

A. Yes, it is an opening notice from the local union to United States Plywood opening a contract on one item.

Q. And the item has to do with hours of work, duration of the work shifts?

A. Well, frankly, I don't know whether it—I don't know what their demands were in that instance.

Q. That was something that customarily was the type of openings that customarily was bargaining locally, isn't that right?

A. By the local union?

Q. With local management, yes.

A. My only hesitation is type. Let me say there has been many, many items opened by local unions which has been reserved to the local union for negotiations that are similarly such items.

[Tr. 1741] Q. Well, this is an illustration of where the local union notified the company that they wanted to bargain and the duration of work shifts was the subject and they wanted to bargain it locally, isn't that an illustration of that circumstance?

A. Yes, that is what the opening says.

Q. There is other local openings? They also wanted to bargain locally on the amount and method of payment on health and welfare from the same union, same date, different form?

A. Yes, they did.

Q. And they also opened on that, didn't they?

A. Yes, they did.

Q. These are all local matters for local bargaining. On the same day the same union served on the company—it was dated March 13, I believe—that notice said they wanted to bargain on a wage increase of 40 cents and a three-year agreement, in that case it was not reserved for local bargaining, isn't that correct?

A. Yes, that is what the notice says.

Q. Those letters went to the U. S. Plywood Corporation from this local on March 13, according to this record, isn't that correct?

A. According to what I see they were written that day.

Q. As a matter of fact, you have those same letters in your file, don't you? You keep a copy of these letters, you have copies of those in your office, don't you?

[Tr. 1742] A. Yes, I have copies of them in my office.

Q. Do you have any reason to believe this General Counsel exhibit was not put in right?

A. No, your question was were they mailed on that date, as I understood your question, and I do not know.

Q. I see.

Now, this, on the other hand, the next exhibit in this—I can't tell from these numbers—as part of General Counsel's Exhibit 34, is a letter to the business agent of that local, Local Union No. 3-26, Plywood Workers, from the general manager, Washington Division of U. S. Plywood, in which they advise the local union they want to bargain on certain articles, isn't that correct?

A. That's correct.

Q. Here is another letter which precedes IWA No. 4.

Trial Examiner: What are you reading from?

Mr. Prael: G.C. 34-C.

Q. (By Mr. Prael) Here is a letter dated March 26, 1963, referring to the fact that certain matters are reserved for local negotiation and stating in the last paragraph, "Please be advised that we, or our authorized representatives and will contact you or your authorized representatives in the near future to establish a mutual convenient time and location to discuss such proposals as are before the parties." You received a copy of that letter, didn't you?

[Tr. 1743] A. Yes, I did.

Q. And it was after that that you received IWA No. 4?

A. Yes.

Q. Doesn't that indicate to you that the May 7 date was suggested by the company, May 7 date was suggested by the company in IWA No. 4 for the purpose of meeting with the local union on local issues?

A. It suggests to me U. S. Plywood did not observe the opening notice which it received from our local union in which the local delegated the authority to our negotiating committee for all openings which the company had made. The company, under that authority, should not have attempted to arrange a meeting with the local union as they have delegated their authority to us.

Q. Well, now, that letter says we suggest meeting for the purpose of negotiating the issues between the parties. The parties are local union 3-26 and this union and this company, isn't that right, and what issues were opened between those parties? There were issues opened between those parties, one being the duration of work week, another one was health and welfare, those were between those parties on that date, isn't that right, those issues?

A. The letter says in accordance with your recent notice of opening.

Q. I am referring you to March 26, 1963.

[Tr. 1744] Trial Examiner: What number is that?

Mr. Prael: G.C.-34-C.; "Please be advised that we are authorized representatives and will contact you or your authorized representatives in the near future to establish a mutual convenient time and location to discuss such proposals as are before the parties."

Q. (By Mr. Prael) Do you recall receiving that document?

Q. And it was proper for the parties to meet to discuss and negotiate the issue between those parties, isn't that correct?

A. Not as it pertains to employer openings.

Q. You are referring now to G.C. It is the IWA position, is it not, that when a union reserves something for local openings only the company must deal with the local but when the company opens something locally then the local refers it to the International, is that right?

A. It refers it in this case to the Regional negotiating committee.

Q. There were issues, local issues, between that local and that company at that time, weren't there?

A. Yes, there was.

Trial Examiner: May I interject a question here, Mr. Prael?

Mr. Prael: Yes.

Trial Examiner: When you have these local company open- [Tr. 1745] ings which the local union authorizes your committee to negotiate on, do you then negotiate separately with the branch or plant manager or division or whatever the case may be on that or do you try to get all of the local company openings together in one pile and negotiate them all together?

The Witness: It varies. Some companies, such as U. S. Plywood, in previous years, on a company-wide basis, each branch and each local come together. There have been other instances where you meet the company separately on such openings. There has been many instances where these types of openings are not negotiated on until after the general negotiations are completed. Then you meet the individual companies or somebody in the name of the negotiating committee meets them on the separate openings by the employer which were different than the different general over-all openings.

Trial Examiner: One more question.

Mr. Prael: Yes.

Trial Examiner: I would conclude from the evidence that has been given here that when you spoke to Mr. Wyatt about the feasibility of dealing with the Association you understood that this would exclude that negotiations concerning local company openings and that it would present no problems any further than it had in the past.

The Witness: No, I didn't so understand. I only understood there would be certain subjects, by identity, which the [Tr. 1746] Association would not bargain for.

Trial Examiner: Well, I am a little confused about this. Presumably the problems that would be raised in local company openings would not be uniform throughout the entire company.

The Witness: Yes.

Trial Examiner: They would concern individual plants or concern individual branches?

The Witness: Yes.

Trial Examiner: As a matter of practice, were those handled in separate negotiations or were they taken up

at a high-level meeting and thrashed out all in one session or one group?

The Witness: For the most part they have been handled in separate negotiations.

Q. (By Mr. Prael) I will show you R-203, which is one of the letters which was received by you shortly after the telephone conversation with Mr. Wyatt on April 12, 1963. This letter states, as did a similar letter from each of the other six members of the Association, that excepted from that negotiation will be pensions, union security, and health and welfare, and those issues which have been customary subjects for local negotiations, and that is true both of local union openings and local company openings, isn't that what you understood?

A. Somewhere I lost the question.

Q. Isn't it true that local union openings and local company [Tr. 1747] openings have customarily been subject to local negotiations?

A. No, that is true.

Q. I understand, in answer to the question, customarily it was.

A. No, I didn't. Customarily and for many years the local unions have given the same authorities in which I have referred that they authorize the union negotiating committee to negotiate on those items which is set forth in the opening notice plus any opening by an employer or employer group.

Trial Examiner: I think the difficulty is one of semantics here. The question, of course, would be how many meetings were contemplated as a result of this.

Q. (By Mr. Prael) Regardless of that, delegation, as I understand your answer to the Trial Examiner, you testified that when there were local company openings then the Council dealt with the local management, plant by plant to dispose of those local company openings, isn't that right?

A. Generally speaking, yes.

Q. All right, I see where we have got into the matter of semantics. I refer to local negotiations as negotiations conducted over a local situation whether it is between the International or District Council or the local manage-

ment. You apparently are using the words local negotiation as only negotiations where the local union does the negotiating, isn't that right?

[Tr. 1748] A. No, I don't.

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[Tr. 1749] Q. (By Mr. Prael) I believe you already testified, but I want to be sure that the record is not now confused, that the term local openings refers both to openings on local issues by local unions and openings on local issues by local plants, local plant managers, or sometimes by the company, is that right?

A. There are both local union openings and local company, rather, local employer openings.

Q. And in the case of local employer openings the union delegates its authority to bargain to the Regional Council but not in the case of local union openings, is that right?

A. That's right. The union delegates authority to the Regional Council on all employer openings.

Q. Yes, both general openings and local openings.

A. Right.

Q. (Continuing) But that delegation does not change the fact those are local company openings, I take it?

A. Well, the general method, Mr. Prael, is an employer will open on a given number of points, so to speak, by notifying the local union and then at a later date will serve notice [Tr. 1750] delegating a certain amount of those to an association, assuming they are and assuming members, of course. If that better explains the answer.

Q. But the remaining local issues are then bargained locally whether they are local company or local union openings?

A. Yes.

Q. Last Friday, near the end of the session, you were asked the following question. I will show you the transcript. It was by your counsel, Mr. Roll, on Page 1691, beginning on line 22:

"Q. (By Mr. Roll) Mr. Nelson, did you at any time learn of the authority of the Association separately from that related to you either by Association chairman or by the letters written by the secretary, Mr. Boddy, or the chair-

man, Mr. Wyatt?" And your answer was no. Do you recall giving that answer to that question?

A. Yes.

Q. Now that is not true, is it?

A. Yes, it is true.

Mr. Byrholdt: Do I understand his answer yes, his answer is true?

Mr. Prael: Yes.

A. I am assuming you asked me if I answered truthfully.

Q. (By Mr. Prael) That's right. I will show you R-333, which is a letter written by Frank J. Doherty of California [Tr. 1751] Division of U. S. Plywood Company. The letter, I believe, is over here on the U. S. Plywood letterhead. That states that the company hereby delegates to the Association authority to bargain collectively on certain things, isn't that correct?

A. Yes, I think that is it.

Q. Did you have in mind that letter when you gave this answer to Mr. Roll's question did you at any time learn of the authority of the Association separately from that related to you either by the Association chairman or by the letters written by the secretary, Mr. Boddy, or the chairman, Mr. Wyatt? You also learned it by this letter, didn't you, which was written by an official of the U. S. Plywood Corporation April 18?

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A. As far as the authority of the Association, I heard it explained for the first time in the April 24 meeting as to what authority the Association had or claimed to have.

Q. (By Mr. Prael) But before that was explained to you verbally by Mr. Wyatt at the face to face meeting of your committee and the Association committee on April 24, before that you had read their letters, had you not, from U. S. Plywood Corporation, which says we hereby notify you that this company hereby delegates to the Association authority to bargain collectively in respect to, et cetera? Had you read that?

A. I had read the letter of U. S. Plywood of April 18.

Q. Before April 24, isn't that right?

A. Yes, I had.

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Q. (By Mr. Prael) I will show you R-203. This is a letter dated April 19, 1963, on the letterhead of International Paper Company. Now, this letter was addressed to your attention and signed by the director of industrial relations of International Paper Company and it states we hereby notify you that this company hereby delegates to the Association authority to bargain collectively on and with respect to any revision of the agreement, et cetera. You read that letter didn't you, before April 24?

A. I hope so.

Q. Did you have that letter in mind when you answered this question of Mr. Roll's?

A. I had the general letters in mind when I answered the question of Mr. Roll.

Q. What did you mean by the general letters, are you talking about 203 and 300?

A. The letter, the letter from Mr. Boddy which I referred to is the same letter that you are now referring to or the contents were essentially the same. I didn't have each in- [Tr. 1753] dividual letter in mind and don't now.

Q. You don't now. Take a look at those and get them in mind and I will show you a couple more so you will have them all in mind.

Here is one, R-205. Would you take a look at that? Put it right in front of you so you won't forget it. Here is R-59 from St. Regis. Here is R-98, which is a Crown Zellerbach letter signed by C. W. Richen, manager of Northwest Timber Operations.

Would you now, with R-203, R-330, R-205, R-59, and R-98 in front of you, each one of them referring to the fact that a company, respectively International Paper, L. S. Plywood, Rayonier, St. Regis, and Crown Zellerbach, that each letter says the company delegates authority to the Association. Do you have those letters in mind?

A. Yes.

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[Tr. 1754] Q. (By Mr. Prael) Would you or your counsel please tell me, show me, the letter written by Mr. Boddy that is identical with any of these letters. Did you receive any from Mr. Boddy? I notice Crown Zellerbach letter is not signed by Mr. Boddy.

A. From meroy I can't tell you, sir.

Q. When you referred—

A. (Interrupting) Let me just add that quite commonly when we are talking about Crown Zellerbach and labor relations field we are talking about Mr. Boddy.

Q. I see. Did you understand from the question you then, I take it, misunderstood Mr. Roll when he said other than as related to you by Mr. Wyatt or by the letter written by the secretary, Mr. Boddy, or the chairman Mr. Wyatt, is that right, did you misunderstand the letter when you answered?

A. I don't know whether I misunderstood it. I understood the question referred to Mr. Wyatt's letter which he wrote to [Tr. 1755] me and the general letters of authorization which you have laid out here before me.

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Q. (By Mr. Prael) Do you wish to change your answer in view of those letters?

[Tr. 1756] A. No, I don't.

Q. Who is Mr. Ted Aaron, A-a-r-o-n?

A. Who is he?

Q. Yes.

A. He is a business agent of one of the local unions having U. S. Plywood operations and a member of Regional Council Executive Board and was a member of the Regional Council negotiating committee in 1963.

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[Tr. 1757] Q. (By Mr. Prael) I will show you this, notes made by Mr. Aaron at the April 26, 1963, negotiation meeting between the Big Six and IWA Region 3. He states here Mr. Wyatt—

Trial Examiner (interrupting): Let the reporter copy it.

[Tr. 1758] Q. (By Mr. Prael—continuing)—said, “• • • On hours of labor I did get clearance from U. S. Plywood in our caucus to negotiate their openings on hours of labor, at various plants, here.”, did Mr. Wyatt say that?

A. Not according to my recollection, which I previously testified.

Q. Now, up here it says according to Mr. Aaron's notes, “Propose U. S. Plywood local plant openings be considered divisible enough to be negotiated at another table or locally. Employers are willing to bargain here to include local openings on the same subject matter,” did Mr. Wyatt say essentially that, or words to that effect, in that meeting?

A. I think if I am correct that in my previous testimony I testified to something essentially in that manner but not in those words.

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[Tr. 1767] Q. (By Mr. Roll) Mr. Nelson, will you contrast the openings of Crown Zellerbach through its branches and plants with the openings of U. S. Plywood through its branches?

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A. As I recall the Crown Zellerbach openings they covered the subject matters of hours of labor, overtime, grievance procedure, which was later delegated to the Association to bargain on in their behalf. It also covered a matter of a separate rate of pay for crummy drivers and this is not the exact words of the opening but, “a rate of pay that is different than the drivers' regular hourly rate of pay for the classification which he performs during the normal work-day”; that was not delegated.

Q. (By Mr. Roll) Will you contrast that with the U. S. Plywood's openings?

A. Well, the U. S. Plywood openings varied from branch to [Tr. 1768] branch. Without looking at each one separately, I don't recall from memory any two

branches of U. S. Plywood who had identical openings on any subject matter.

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Q. (By Mr. Roll) Mr. Nelson, did the U. S. Plywood plants or branches open up subject matter for bargaining in each of those openers which was U. S. Plywood's later purported delegation to the Big Six Association for bargaining? Do you understand my question?

A. I think so.

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[Tr. 1769] A. And the answer is no, they did not in all branches of U. S. Plywood.

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Q. (By Mr. Prael) Some U. S. Plywood branches did open on each or all or some of the items which were delegated to the [Tr. 1770] Association for bargaining, isn't that right?

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A. I believe there were some of the subject matters.

Q. (By Mr. Prael) That were assigned to the Association?

A. That were later delegated to the Association.

Q. As a matter of fact, Crown Zellerbach didn't open on crummy drivers' rates in 1963, did it?

Mr. Byrholdt: He so testified.

A. My memory says they did.

Q. (By Mr. Prael) You are sure of that?

A. Oh, I am reasonably sure.

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[Tr. 1777] Q. (By Mr. Byrholdt) Mr. Nelson, the Trial Examiner asked you about the meaning of R-353, particularly Page 3, and your explanation of a question—strike that—or a sentence about the beginning indicating

that he personally understood, et cetera. Now, reading that page, Mr. Nelson, I will direct you to the preceding sentence above beginning "He made a considerable point". Would you read the balance of that paragraph and explain the meaning of that?

I will withdraw my last question.

Mr. Nelson, to what does Page 3 have reference to there, commencing with the sentence "He made a very considerable point" on through the balance of that paragraph?

A. It had reference to the hours of labor subject.

Q. What particular reference?

A. He is referring specifically to a seven-day work schedule.

Q. A proposal made to the union in writing?

A. Yes, there was one.

Q. What misunderstanding was there with regard to that proposal that is referred to there?

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Q. (By Mr. Byrholdt) Yes, or misinterpretation.

Mr. Prael: I understood he took it not out of there.

Trial Examiner: This is a different sentence.

[Tr. 1778] A. I am not entirely clear from reading it what Mr. Wyatt was referring to, but there have been not only some discussion if it wasn't discussed prior it was later, both publicly and at later meetings, Mr. Wyatt and the people he was talking for were saying that the union did not understand their position which they gave us on April 25, that they didn't intend for the seven-day, three-shift proposal to apply to logging camps, boommen, and at one stage included sawmills.

Q. (By Mr. Byrholdt) Is it to that which you refer when you say it had been made clear across the bargaining table?

A. Yes, as far as I was concerned I understood clearly there that their statement and also their written proposal which they gave us.

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[Tr. 1779] Q. (By Mr. Byrholdt) Or is it not?

A. It is.

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[Tr. 1780] DANIEL JOHNSTON was sworn and testified as follows:

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[Tr. 1781] Direct examination.

Q. (By Mr. Byrholdt) What is your occupation, Mr. Johnston?

A. I am in labor relations as a general category.

Q. Have you been employed by the Western Council of the LSW at any time?

A. Yes, continuously since 1954 by the Western Council of Lumber and Sawmill Workers. Prior to that in the State of California since 1942.

Q. Were you engaged at any time prior to the commencement of the 1963 negotiations to represent the Western Council at LSW?

A. My arrangement with Western Council on a furthering continuing basis to do what is assigned from time to time. Insofar as the 1963 negotiations were concerned, we were specifically authorized to commence doing economic research at the Western Council Executive Board meeting in October of 1962.

Q. Did you undertake such research work?

A. Yes.

[Tr. 1782] Q. And what preparations did you make for the 1963 negotiations?

A. The Western Council holds an executive board meeting in January of each year, at least in recent years, at which time they review the collective bargaining outlook for that coming year, assuming the contracts are open for negotiations. Part of their consideration is based upon the economic data pertaining to the lumber industry itself or pertaining to the needs of employees or pertaining to the relative status of lumber and sawmill employees versus employees in other industries either in the geographical area or throughout the country and it

was these type of data which we prepared for them and their considerations in the executive board meeting in January of 1963.

Q. Following the executive board meeting of January of '63, what further action did you take on behalf of the Western Council to represent them in 1963 negotiations? I refer you now to particularly February of 1963.

A. In answering your question could I back up and discuss briefly the considerations in January?

Q. Yes, of 1963.

A. The Lumber and Sawmill Workers throughout 11 western states—

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[Tr. 1783] A. One of the major jobs that the Western Council had facing it in 1962 and 1963 was the fact that they had been subjected to a series of raids by other labor organizations primarily Teamsters but not entirely and the basis for those raids were part of the Western Council Executive Board's considerations, there had been in their opinion no wage increase in 1962. There was unrest among the members. There had been some decertification elections and there had been some raids and the Board in January—

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A. (Continuing) The Board in January determined they had several major problems to face in 1963. One was the question of a master contract and the necessity of establishing such a master contract. By master contract I mean a contract covering several of the existing collective bargaining contract units encompassed in a larger geographic area of a single contract. [Tr. 1784] At that time the contracts in Central California were open for negotiations.

Q. This is January of 1963?

A. Yes, January, were open or being opened for February negotiations. To get, then, to your question of February—

Q. (Interrupting) Just a moment. You mentioned the need for a master contract. This was in fact discussed in January of 1963, is that what you are telling us?

A. Oh, yes.

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Q. (By Mr. Byrholdt) These are the officers of the District Council that make up the Western Council, is that correct?

A. Paul Sanger, William Ransbottom, Mr. Al Zuelsdorff, whose name I do not know how to spell, constituted the Board at the time consisting of the executive head of each of the [Tr. 1785] District Council that comprise to make the Western Council of Western Sawmill Workers.

Q. (By Mr. Byrholdt) Following the January Executive Board meeting, did you have any occasion to have any conversation with Mr. Hartley in February of 1963? Tell us when and where.

A. During February of 1963, Mr. Hartley—

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A. (Continuing) During February of 1963, Mr. Hartley and I were both engaged in collective bargaining negotiations in the Central California District Council area which runs from Chico, California, to Bakersfield, an area which had been subjected to some six raids by the Teamsters organizations in recent months. We were attempting to work out a program including a master contract. The latter part of February of 1963 Mr. Hartley advised me that he had had a short meeting with Mr. Wyatt in Tacoma concerning the invariable work week, seven-day operation, and the possible formation of an Association in the industry. For a period of an hour or two hours I discussed the subject with Mr. Hartley in San Francisco, both at the Fielding Hotel in [Tr. 1786] San Francisco and at dinner, some restaurant we went to. I asked Mr. Hartley several questions.

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A. (Continuing) I asked Mr. Hartley several questions along the line to what would be the structure of the association, what is its purpose, how is it being formed, is it formed solely for the purpose of the employers or is it a two-way street where we might accomplish our objective of a master contract. Mr. Hartley stated to me that—

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A. (Continuing) Mr. Hartley stated to me they did not, they meaning he and Mr. Wyatt, did not discuss any details, just the idea and did, I think, the idea was worthwhile. I told Mr. Hartley that I thought the idea as such was exactly the thing that we were trying to accomplish as a program in the lumber industry, if that idea could materialize, we should do every- [Tr. 1787] thing we can to help it materialize but until we know what the structure and purpose and formation of such a potential association might be, I suggested to him that he neither agree to bargain or recognize the association but only agree to meet. I was subsequently advised by Mr. Hartley that that is what he did in his telephone call to Mr. Wyatt.

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Q. (By Mr. Byrholdt) Following that conversation with Mr. Hartley, do you know whether or not he did meet with Mr. Wyatt in February of 1963?

A. My testimony related to—

Q. (Interrupting) That was the substance of this testimony?

A. My testimony was based on the fact that this discussion took place after Mr. Hartley had met with Mr. Wyatt.

Q. Following that discussion, Mr. Johnston, did you have occasion to attend an Executive Board meeting here in Seattle on May 8—excuse me—in Portland on May 8, 1963?

A. Yes.

Q. Will you tell us who was present then and what the substance of the meeting was all about?

A. Those persons present were roughly those I named before as being members of the Western Council Execu-

tive Board plus a couple of other people were there. Mr. Vincour who is Mr. Hartley's assistant in the Western Council office and I think [Tr. 1788] a couple of International representatives were there.

Q. You were present?

A. And I was present.

Q. What was discussed at that meeting, if you recall.

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[Tr. 1789] A. (Continuing) The May 8, 1963, Executive Board meeting occurred the day prior to the first meeting with the so-called Big Six. Now, at that time the negotiations were under way with the Timber Operators Council, Simpson Lumber Company, and Georgia Pacific Timber Company. We had certain information, either by rumor or other, on several points, namely—

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A. (Continuing) Mr. Hartley read a sample of the notices from the Big Six Companies delegating certain issues to an association undefined at that time and restricting certain issues and certain geographical areas from such delegations. Mr. Hartley and I had heard rumors about that time of possible lockout in connection with such an association. Mr. Hartley asked [Tr. 1790] me to discuss in some detail the various ramifications with his Executive Board so they could take action on a program or approach to take the following day in the meetings scheduled with the Six Companies. I did so. I pointed out to the Board that letters of April 17 through 19 constituted a delegation of authority to an agent and by themselves they were no different from, in my opinion, previous delegations by TOC members or Forest Products Operators members, predecessors of the TOC in previous years.

I further pointed out Mr. Hartley's request that the formation of an association, unless we knew what it was, if it were a formal association, a method whereby the union would be giving up its rights of selective strikes. I might explain. Since 1954 the Western Council has not engaged in any general industry strikes but has only in

cases of economic dispute engaged in selective strikes or as we call it, single shooting on certain companies. I explained to the Board that the formation of a formal association would take away the right of the Western Council to selective strike or single shot strike if a formal association wanted to take the position that a strike against one is a strike against all. The Executive Board had a considerable discussion for a period of a couple of hours on these subjects. They asked me about a lockout as none of them had been involved with a lockout other than perhaps a plant, on a multi-plant basis. I talked to the Board about a lockout. [Tr. 1791] I must say they were more interested in the practical aspects of the possible bargaining than they were in the technical aspects of a lockout but nevertheless at Mr. Hartley's request I did outline to them several things. Namely, the difference in my opinion between a lockout and a strike and a lockout—on a lockout you don't picket and are ready and willing to go back to work. I emphasized the extreme seriousness of a lockout to a labor organization, that in my opinion, a lockout is the most serious thing that a labor union can face, that if the employer is successful in a lockout you have lost the union. It is equivalent to decertification without a vote.

I pointed out to the Executive Board that in such situations it is essential that the union never allow the employers involved to switch the lockout to a strike and that if an employer locks out some but not all employees, the rest must work and they cannot strike, and so on, on things of this nature.

I also pointed out to the Executive Board that their policy establishing in January and Earl Hartley's recommendations to them that they attempt to accomplish a master contract, a unit to protect against raids, was more important than the loss of the right of selective strikes, but that it would be essential that it be a two-way street, that if the union was to give the employers and this new association the group status, group recognition, it was equally important that the union receive in [Tr. 1792] turn a unit recognition on a master contract to prevent raids in decertification on a plant-by-plant basis.

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A. (Continuing) The action of the Executive Board—

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A. (Continuing) The action of the Executive Board was to authorize a negotiating committee to discuss, negotiate, bargain for a master contract.

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[Tr. 1793] A. There is one more sentence and I would be through.

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(A. (Continuing) They took two actions preliminary to the meeting of May 9 with the Big Six.

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(A. (Continuing) The Executive Board took two actions. One to authorize the wage committee to negotiate towards a master contract with the Big Six but first their action was that we should open the meeting. We should not commence bargaining. We should not allow the association to commence the bargaining until we had asked and received satisfactory answers to several vital, to us, questions in connection with the structure, the organization, the authority of the association, and whether or not [Tr. 1794] it would be a two-way street. That is all I recall pertinent to that meeting.

Q. (By Mr. Byrholdt) Here are some letters Mr. Hartley read to the Executive Board. I will show you Respondents' 202. Is that an example of the form of the letter he read at that meeting?

A. Yes.

Q. A delegation from the Association to bargain collectively?

A. Yes, it is

Q. I will show you what has been marked as Respondents' 207, can you identify that and tell me—

A. (Interrupting) 207 is a letter dated May 8, 1963.

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Q. (By Mr. Byrholdt) Where was that prepared, if you know?

A. It was prepared on May 8, 1963, at the Western Council's office in Portland during the day during the Executive Board meeting.

Q. Were minutes made of that Executive Committee meeting of [Tr. 1795] May 8, 1963, Mr. Johnston?

A. The minutes of the Board's meeting of the Western Council contained the subject matter discussed and some, perhaps not all, of the actions taken and are called to all local unions affiliated with the Western Council.

Q. Were you furnished with copies of those minutes?

A. Yes.

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Q. (By Mr. Byrholdt) Mr. Johnston, I will show you what has been marked for identification as General Counsel's Exhibit 72 and will you identify that for me?

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A. Those are the minutes of the Western Council Executive [Tr. 1796] Board of May 8, 1963, with the exception of the ink marks on the second page.

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[Tr. 1797] Q. (By Mr. Byrholdt) Mr. Johnston, there is a reference in General Counsel's 72 to a letter prepared at that meeting. Can you tell me whether or not Respondent's 207 is that letter referred to therein?

A. Yes, in the paragraph in the minutes referring to—

Q. Page 2, paragraph 4.

A. On page 2, paragraph 4 of the minutes do not refer to this letter of May 8, if that was your question.

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[Tr. 1798] Q. (By Mr. Byrholdt) Directing your attention to May 9, 1963, did the LSW have occasion to have any meeting with the representatives of the Big Six?

A. Yes.

Q. Where did that meeting take place?

A. I think it was at the New Heathman Hotel in Portland.

Q. Did each of the six companies, did each of the five companies with whom LSW had labor relations contracts have representatives present at that meeting?

A. I believe at the first meeting there was representatives from the Rayonier Company sitting in the room.

Q. Now, can you tell us what took place at that meeting? Who was present for LSW?

A. Mr. Hartley, Mr. Weller, Mr. Allen, Mr. Hazard, Mr. Casseday and several others from various district councils.

Q. Would this be the executive committee?

A. Wage committee, negotiating committee.

Q. Were you present in that meeting?

A. I was present.

Q. Who was the principal spokesman for the LSW at that meeting?

A. Earl Hartley.

Q. And who else?

A. And I was.

Q. Who did most of the speaking on behalf of LSW at that meeting?

[Tr. 1799] A. At that particular meeting I did at Mr. Hartley's request.

Q. And who represented the Big Six or the Big Five as far as you are concerned at that meeting?

A. Well, Mr. Wyatt was there and Mr. Frank Doherty of U. S. Plywood, Chet Boddy of Crown Zellerbach, Mike Roberts of Weyerhaeuser—St. Regis, pardon me—Mr. Greeley of International Paper, and various other representatives of those companies.

Q. Now, Mr. Johnston, if you can recall, tell us what conversations were had relative to the associations authority and LSW's position relative to that authority in that first meeting.

A. Well, in accordance with the action of the Executive Board the day before Mr. Hartley opened the meeting—

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[Tr. 1800] A. (Continuing Mr. Hartley opened the meeting stating that we had something to say and asked me to proceed. I stated that we had looked over the letters re-

ceived from various companies dated April 17 through 19 and that we were not prepared to recognize the association or the organization until we had the satisfactory answer to several questions. I then proceeded to ask questions. After some preliminary discussion Mr. Wyatt said he was either elected or selected as a spokesman for the companies. I asked Mr. Wyatt what the structure of the association was. He stated that the six companies had banded together for the purpose of collective bargaining through an association. I asked him if the organization had written authority from each company to that effect. He said, yes. I asked him if they had notified the local unions of the fact. He said, no. I then asked him what is the name of your association. Mr. Wyatt stated that rather than a formal association with a capital A and for want of a better name, they called it just an association with a small "a". Mr. Hartley at that point said we have given it a name also. We call it the Big Six. I inquired about the authority of the association. We had some discussion about Rayonier being a member of the Big Six but a company with which the Lumber and Sawmill Workers has no contracts and how they, as a non-employer of ours, would be voting on the matters effecting us in what we understood of Mr. Wyatt's discussion. I pointed out in our opinion any one company that [Tr. 1801] we hold a contract with could then veto any action of the association. I asked Mr. Wyatt who would sign any agreement reached by the association and he stated that each company would be obligated to incorporate or to amend its own individual contract in accordance with any settlement reached with the association. I inquired that if a settlement, we did proceed and a settlement was reached, who would sign such a settlement requiring the other companies to put it in their individual contracts? Mr. Wyatt stated that they had not reached that point in their considerations as yet but the association had been rather hurriedly put together and he could not give a formal answer to that question but that offhand his personal opinion at that time would be that each company would sign as well as the association. I inquired of Mr. Wyatt on the exclusions. We had a great deal of discussion con-

cerning their inability to speak for any of the plants east of the Cascades—

Q. (Interrupting) When you say you had discussions, to what exclusions do you have reference?

A. In the individual company letters of April 17 and 19. They specify for plants west of the Cascades. To us this meant that they were excluding certain plants of St. Regis, Klickitat, Libby, Montana, certain plants of U.S. Plywood, Polson, Montana. Mr. Wyatt outlined the plants they were speaking for which did exclude those that I have just named but also did not include Douglas City, sawmill of U.S. Plywood, near Redding, California, but his outline also included U.S. Plywood's new [Tr. 1802] plant at Sonoma, California. We stated that we had no authority to bargain with them unless we could speak for all the plants we represent and all issues that we represent. I stated to Mr. Wyatt in the group that these were serious problems that had to be resolved before we could recognize their organization. He inquired whether we were concerned only with the geographical areas, the exclusions, St. Regis and U.S. Plywood plants. I told him no, not only with those exclusions but also the exclusions of issues and I had previously mentioned the master contracts so at this point I said not only the areas but also we are concerned with exclusions of issue and we want a master contract, a unit contract for us. I had asked Mr. Wyatt if they had a copy of the association—first I asked, do you have an agreement. He said, yes. I asked him if we could have a copy of the association agreement and he did not provide us with a copy. He did not actually answer the request. He just rather laughed as though I were ridiculous in making the request and I stated, well, I suppose if something happens and we get in a hearing over it, we will get a copy that way and Mr. Wyatt said, well, that is one way of getting it.

Q. As a matter of fact, when did you get it, Mr. Johnston?

A. The first time I ever saw it was in the unemployment insurance appeal hearing in California at Redding, California, August 26 and 27.

Q. Go ahead.

[Tr. 1803] A. (Continuing) I asked Mr. Wyatt if they had an agreement among the six companies that a strike against one would be considered as a strike against all. He stated, yes, they think they had the legal authority but were not prepared at that time to say whether or not they would use it. There is a comma after yes, not a period, the way it came back to us.

I asked Mr. Wyatt if they had authority to negotiate on the master contract so we would have the protection of a unit as broad as their association so that we would not be subjected to raids by other labor organizations. I outlined in some detail what our problem was. I stated that we had had 6 Teamster raids the previous year and that in 1961 St. Regis signed a contract behind our picket line with the Teamsters and we were vitally concerned with having a unit to a master contract that would give us the protection against raids. I explained in some detail to the employers that I thought this was advantageous to the industry. I stated that the old procedure, in our opinion, of playing the IWA and the Lumber and Sawmill Workers against each other was no longer feasible because of the no raid amendment to the AFL-CIO constitution and there ought to be a program in the lumber industry that would provide stability in the field of labor relations.

Mr. Wyatt stated that at that point that they had no authority to discuss a master contract. They would have to have [Tr. 1804] a caucus on that and would give us an answer. We discussed the exclusions of issues in their letter of April 17 to 19.

Q. What are those exclusions you have referenced?

A. Union security, health and welfare, pensions and local issues. We had, and we explained to the employers, very serious problems in connection with health and welfare throughout the lumber industry. The Western Council has several negotiated joint-multi-employer health and welfare trusts. All but about two of those throughout the industry include dependents as well as employees in those multi-employer trusts. The two that did not were Simpson Timber Company for all of its plants in three states, California, Oregon, and Washington and the Timber

Operators Council trust with the Western Council Lumber and Sawmill Workers.

I pointed out that we wanted to revise that trust to provide for dependents coverage through the trust, provide cheaper medical coverage for the employees and for the families as was provided in the payroll deductions on separate plans through the Western Council-TOC trust. Our reason for raising that at this particular meeting with the six companies or five companies was because it was our understanding and is a fact that four of the companies are participating in TOC health and welfare trusts, specifically, St. Regis, for one plant, Northwest Door, U.S. Plywood for its lumber and sawmill plants in Oregon and Washington, although, as we pointed out in Cali- [Tr. 1805] fornia, part of the Hazard Trust which includes dependents, International Paper for its lumber and sawmill plants in the northwest, except in California, where it again participates in Hazard Trusts already covering dependents and the Crown Zellerbach. I pointed out to Mr. Wyatt and the other employers that you are refusing to discuss health and welfare here so then we have to go over to TOC and talk about this vital problem concerning our health and welfare and the four of you that are in the TOC Trust, in our opinion, control TOC, are the biggest—it was our understanding—at least three of them were on the Executive Board of TOC so I said to Mr. Wyatt, so you refuse to discuss the subject here. We go over to TOC and you instruct them to say no. Mr. Wyatt stated they wouldn't do any such thing, that the association was not instructing TOC. I did not mean in my statement that the association would instruct TOC. I mean the four companies that are part of TOC would instruct TOC. I stated that we could not bargain with, recognize and bargain with, the association unless we could bargain for all areas and all issues.

Approximately at that point, I think the employers took a recess.

Q. About how long had this initial discussion taken?

A. Over an hour.

Q. You say they then took a recess after you had explained the LSW position?

[Tr. 1806] A. Yes. I think that recess included a lunch recess and we reconvened after lunch.

Q. When you reconvened following lunch, what, if any, response did the six companies make to the statement of position that you had made on behalf of the LSW?

A. Mr. Wyatt stated that in terms of long range intent, they were not in serious disagreement with our outline of the problems and master contract joint program but that the association was new. They did not know what issues we might raise, that he regretted there were as many restrictions on them as there were at that time but hoped that in future years that the restrictions would become less and less. He then answered the previous question that he said he had to have a caucus on, namely, were they authorized to bargain on issues other than those in the companies' notice of April 17 and 19 and he stated they could bargain on all issues except the excluded issues and the excluded areas. I had asked Mr. Wyatt, what is the difference between that approach and TOC? Mr. Wyatt stated that the difference was that the association was agreeing to bind all of its member companies to any settlement reached. I told him that that didn't make any difference because the companies were all there and could speak for themselves or through Mr. Wyatt as a spokesman which in our mind was no different than a negotiating committee of TOC. They told the result of their own negotiations to the negotiating [Tr. 1807] committee. About that time the union group caucused.

Shall I state what was discussed in the union caucus?

Q. Tell us what was considered in the caucus. I don't think you can testify as to what was stated there.

A. Mr. Prael: One moment.

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Q. (By Mr. Byrholdt) What prompted the union to caucus in the afternoon of May 9, 1963, Mr. Johnston?

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A. Following lunch when Mr. Wyatt outlined that their intent and long range was not too far apart from ours but on the exclusions and inclusions they could not change.

We at that point took a caucus because we had reached the point where the wage committee of the union had explored the questions and had received the answers and there was no point in asking them over again so we took a caucus to decide what to do. In that caucus the union committee——

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Q. (By Mr. Byrholdt) Mr. Johnston, following that caucus, [Tr. 1808] did you reconvene with the six companies that afternoon?

A. Yes.

Q. And following reconvening with them, what, if anything, took place?

A. When we came back from the caucus we stated that the union could not bargain with the association unless it maintained its position of bargaining on all areas and all issues. Mr. Wyatt stated that the association can only meet on an association basis, that the association cannot speak for the excluded plants or the excluded issues. Mr. Roberts of St. Regis, spoke up stating St. Regis would be speaking only for its plants west of the Cascades. I stated that, in effect, each party has stated its position but perhaps through further discussions positions can be modified. Mr. Wyatt put it in better language than I did in response suggesting that we bargain, continue the discussions on that basis and that on these other matters through further discussions either one or both parties might change its position as time went on. At that time, at that point, with that understanding, Mr. Hartley handed to Mr. Wyatt copies of the Western Council's letter dated May 8, 1963, which you had asked about.

Q. Is that the letter in evidence as Respondents' 207?

A. Yes, it is marked 207.

Q. The letter you have before you marked 207, is that the letter Mr. Hartley handed the representatives of five companies [Tr. 1809] on that day?

A. Yes. It includes all our geographical areas with that exception.

Q. Following the discussion and the delivery of that letter, what further discussion was had between the parties, Mr. Johnston?

A. Well—

Q. (Interrupting) On May 9, 1963.

A. This is by 2:30 in the afternoon by then and Mr. Hartley said, well, we have got rid of the technicalities or words to that effect so I then distributed to the employers copies of the general letter to the industry dated April 11, 1963.

Q. I will show you what has been placed in evidence as Respondents' R 200. Is that the letter you now have reference to?

A. Yes.

Q. Mr. Johnston, on May 9, 1963, were there any other proposals by the union other than those you mentioned? You have detailed certain matters relative to authority. Were other issues outlined at that meeting?

A. Well, after we distributed this letter dated April 11, the employers glanced at it, read it, we then outlined certain proposals. There were eight proposals we outlined to them, not counting the major issue on the health and welfare that they would not accept. We outlined eight points to them. These included such things as a committee on automation, study of impacts of automation on personnel and production, a committee [Tr. 1810] on classifications, where men were displaced by change in jobs or new machines. Classification would be handled on a uniform basis. Questions of a master contract where each opposed that master contract be agreed to, worked out within the first year of a three-year contract. There were several changes. The wage proposal of sixty cents over a three-year period, a change in the pro rated vacation pay for retired employees, a proposal on sub contracting whereby if we signed a contract, we wouldn't lose the member for the subcontracting during the life of the contract. On the proposal of the master contract various ones of the employers asked certain questions as to how it would work and what we had in mind, in addition to the questions asked by Mr. Wyatt. I tried to explain in some detail because some of the companies, I did not know if they had experience with it and other companies I pointed out to them that

they were perfectly familiar with what we had in mind because they had the same thing in the paper end of their companies.

Q. You are referring to companies there negotiating with you?

A. Yes, the men in the room.

Q. Which companies do you have reference to?

A. Crown Zellerbach, International Paper, St. Regis. They all have part of their contracts with paper unions.

Q. Does this refer to Weyerhaeuser as well?

A. No, I didn't have them in mind at the time. They outlined [Tr. 1811] what they had in mind. First they wanted the stability of a unit contract covering the area of their association so that the contract was to be as broad as the association. I explained the method of achieving it. I outlined what we had done in Disneyland, what the companies had done, the Printing Specialties or the Pulp and Sulphate Union on the paper end. I went into some detail to make the thought palatable to the employers. It was not a question of opening all contracts for all subjects and trying to renegotiate an entire contract for six companies on all matters in one year. This is not our thought. Our proposal was that during the first year of a three-year contract we make uniform and put into a master agreement with all companies sufficient items to give us the protection of a unit against raids. We were flexible on what points could go into such an initial master contract. Then, each company would have as some of the companies have, as the Printing Specialties union, Pulp and Sulphate union or how we did at Disneyland with 43 International Unions that I participated in, we would then attach as a schedule A or an exhibit A all those things that differed. For example, I pointed out that each company and each plant would have to have a separate schedule A on wages because there are no two alike. Throughout all the companies there are no two wage schedules alike or two plants of the same company have the same wage schedule unless they are in a bargaining unit contract at the present time. This is one [Tr. 1812] of the reasons we wanted a classification committee to try and standardize, to make uniform, some of these wage differences. I explained that if

we got enough in the first year to give us a master contract protection, then in subsequent negotiations it would be possible to negotiate a particular item that was in the various Schedule A's. Then, upon agreement transfer that from Schedule A to the uniform master contract and that this would take a considerable period of time and in the meantime we would have the beginning, we would have the structure that we wanted and needed.

Q. Does that generally exhaust your recollection of the discussion on the master or overall unit contract question?

A. Yes.

Q. Now, Mr. Johnston, you mentioned that you proposed a committee on automation and another one as classification. Would you explain to us what the union's proposal was on those two particular points, how you proposed it? What form?

A. We explained to the companies that more research—it was about a six per cent loss of man power in the industry per year for the past several years that this trend toward automation was depleting, the membership was requiring higher skills of those that are left. Mr. Wyatt countered by saying there was more employment by the Big Six Companies now than there was so how can we say that and we countered back again that the industry increased employment was due to them buying out more plants, [Tr. 1813] producing more rather than increasing employment due to production. We pointed out we would like to establish a program with the industry which would be a joint continuous and permanent study, not only on automation in the sense of a mechanical term but a industry planning committee that would look ahead towards the impact of decreased, perhaps, in lumber, a changing need, employment picture, displacement of men. We wanted to do this jointly through an association, if we could through a master contract. Mr. Wyatt said that the outline and intent—not on the ninth he didn't. There was no response from the companies on the ninth. To answer your other question on the classification committee, we explained that automation is a general term that is used to cover all displacement of all men but day by day a company will buy an improved forklift truck, for example, and one man loses his job and

the remaining man or two men are doing the work of the production that three men were doing, not to an overall big sense of automation of new equipment but just by improved machinery and that is all policy and program was and is that when a man is displaced and others are doing his work, in the increased productivity we feel that we have the right to reclassify the remaining employees at a higher wage rate, and this should not be done piecemeal by whatever local union happens to think of the point at the proper time but should be done on an overall basis, a sound program for the entire industry. I used a specific [Tr. 1814] example wherein the arbitration case in Arcata, California, the fact the local union in the same town did not raise the same issue with Weyerhaeuser Timber Company and this was the type of thing we wanted to prevent and wanted some stability as the industry is going through the changes.

[Tr. 1815] Q. These committees you proposed for classification on automation, they were to be five-company wide, is that the scope of your proposal?

A. Our proposal they be made part of a master agreement covering all companies and all plants.

Trial Examiner: Six companies?

The Witness: Five for us, we do not have contracts with Rayonier.

Q. (By Mr. Byrholdt) Sir, does that cover your recollection of what occurred on May 9 at the meeting between LSW and the members of the Big Six with whom you have contracts?

A. Yes.

Q. Taking you back over your testimony just briefly, you mentioned that Rayonier Company was in attendance at that meeting, is that correct?

A. I believe they had a representative sitting in at that meeting not participating with us. I am not positive, but I think the first meeting a Rayonier representative was sitting in.

Q. Referring you to the next-strike that—

Before we proceed on, can you tell me approximately how long the meeting on May 9 lasted?

A. Well, both morning and afternoon, if your—

Q. (Interrupting) Both; and in hours, if you can, if you have any recollection.

[Tr. 1816] A. I think it lasted fairly early in the afternoon; around 3:30 or so, because by that time we outlined our proposals and they wanted to study them overnight. I would say around 3 or 4 hours.

Q. Did you next meet with these five companies on May 10, 1963?

A. Yes.

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[Tr. 1823] Direct Examination.

Q. (By Mr. Byrholdt) Mr. Johnston, as we recessed yesterday afternoon, you were finishing testimony as to the meeting of May 9, 1963. Have you completed your testimony with regard to that meeting?

A. Yes, I believe I have.

Q. The next meeting was on May 10, 1963, was it not, between the LSW and these five or six companies that made up this group called the Big Six?

A. Yes.

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Q. (By Mr. Byrholdt) Mr. Johnston, tell us who was present on the date of May 10, 1963, at the LSW meeting.

A. For the Western Council, I believe it was the same people that I mentioned in attendance on May 9. For the companies [Tr. 1824] there were approximately the same people that I mentioned that were in attendance on May 9, with one exception. Yesterday I testified that I wasn't certain but I thought a representative of Rayonier Incorporated sat in as an observer on May 9. I believe that that was on May 10 and not on May 9. I wasn't certain yesterday, but I think that is right.

Mr. Lewis of Rayonier Incorporated sat in on May 10 instead of May 9.

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Q. (By Mr. Byrholdt) Mr. Johnston, with emphasis upon the positions taken by the LSW at the May 10 meeting and the responses made by the spokesman for the six

companies, or five companies that were present, would you tell us what was said in substance, and by whom at this May 10, 1963, meeting?

A. Mr. Wyatt opened the meeting with a general answer to a list of proposals we had submitted the day before, and in addition again outlined their proposal that the companies had made to the unions on the variable work week and grievance procedure. In doing that Mr. Wyatt made the first wage proposal which we pointed out was less than U.S. Plywood had given their non-union plant by that date. [Tr. 1825] We had a considerable discussion again about the master contract, our desire for unit protection. We had considerable discussion in connection with the excluded areas.

Q. Can you tell the substance of those discussions and who spoke and what they had to say.

A. I may get mixed up between the 9th and 10th in answering your question.

Q. As best you can recall.

A. There was Mr. Hartley made the point that we could not bargain with the Association and exclude areas east of the Cascades to use his language, and he said "We can't throw east of the Cascades to the wolves." We again made the point that we could not bargain with the Association as such and exclude those plants east of the Cascades.

Mr. Wyatt again made the point that they could only meet on the basis of the plants listed by them west of the Cascades. Mr. Wyatt made the point that the Association did not have the control over included or excluded plants, that that was up to each company, and stated insofar as St. Regis was concerned, if Mr. Roberts wanted to include the plants east of the Cascades that could be done but the Association could not.

By that time a telegram arrived in the meeting for Mr. Wyatt and a recess was taken; not separate caucuses but just a general recess. During that recess, Mr. Hartley showed me the telegram that Mr. Wyatt had received and handed to him.

[Tr. 1826] This telegram was from St. Regis Corporation in New York addressed to Mr. Wyatt, stated that, in effect, under no circumstances could the Association dis-

cuss or include or—I don't know the language of it—any of the plants east of the Cascades. The day before there had been some confusion as I mentioned in connection with U.S. Plywood inclusions or exclusions.

Q. When you say inclusion or exclusions, to what do you have reference?

A. Plants in various areas.

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A. (Continuing) So, during this recess on the 10th, I went to Mr. Frank Doherty of U. S. Plywood in the hallway in the Heathman Hotel.

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A. (Continuing) Mr. Hugh Allen, who is secretary of the Northeastern California District Council of Lumber and Sawmill Workers, which includes the Redding area, was with me. I discussed the subject of the inclusions or exclusions of plants with Mr. Frank Doherty, pointed out to him that I thought they had made an error, that they had failed to list Douglas City Sawmill, which is in or near Redding, California, but that they had included in the list Sonoma, California.

[Tr. 1827] I mentioned to Mr. Doherty that Sonoma was a new plant recently purchased by U. S. Plywood from Sonoma Plywood Corporation and that it was in the Central California Council District where the bargaining had been completed in the main and that the contract, Mr. Doherty said, was open on wages only at Sonoma.

Mr. Doherty and I agreed that Douglas City Sawmill should properly be in area that they intended to encompass by the Association and that Sonoma Plywood could be excluded.

Q. (By Mr. Byrholdt) Mr. Johnston, I will show you what is in evidence now as Respondents' Exhibit No. 208. Will you identify that?

A. Yes, this is the telegram that arrived during the discussions. It is a copy of it.

Q. Is that the telegram that was read at the meeting of May 10, 1963?

A. The telegram was not read at the meeting. During the recess Mr. Wyatt showed it to Mr. Hartley and Mr. Hartley showed it to me.

Q. You are talking about the recess during which you talked to Mr. Doherty?

A. Yes. I think it is the same recess the two occurred; I am not positive of that.

Q. What other discussions were had on May 10, 1963, that you can recall, referring now to the meeting between LSW and the [Tr. 1828] five or six companies?

A. I have mentioned the subject matters, the master agreement, their first offer of the proposal and other matters and some more details, if that is your question.

Q. Yes.

A. Mr. Wyatt indicated that the companies were not opposed in principle to our proposal for additional bracket adjustment for skilled and maintenance employees. He indicated they were not opposed in principle to a portion of our proposal for pro-rated vacations for retired employees. He indicated they were not opposed to our proposal for a three-year contract with each of the companies.

In making the companies proposals at that particular meeting, the actual proposal was restricted to wages. We had further discussion about their proposal of a seven-day operation which we termed a variable work week. The union committee was rather emphatic on its rejection of that proposal. Mr. Hartley pointed out to the employers that Monday to Friday work week was something the union had struck for over a period of 20 years or more and that they were not now going to sit in a room and give it away and go back to a seven-day, straight-time operation.

Q. Was there any shift in the union's position from May 9, 1963?

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[Tr. 1829] Q. (By Mr. Byroldt) Was there any change in position by the LSW between May 9 and 10, 1963, in the proposals they were making to the six companies?

A. None whatever.

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Q. (By Mr. Byrholdt) Did the union state any different position between May 9 and 10, 1963, to the companies at the meetings you described?

A. No.

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[Tr. 1830] Q. (By Mr. Byrholdt) Did they make any different proposal to the companies on May 10, 1963, than they did on May 9, 1963, which you previously testified to?

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[Tr. 1833] A. Yes.

Q. (By Mr. Byrholdt) You have examined General Counsel's Exhibit No. 60, have you, sir?

A. Yes.

Q. Does that in any way refresh your recollection of what took place in that meeting?

A. Yes.

Q. Can you tell us in what manner that it refreshes your recollection?

A. A few days prior to May 22 Crows Digest, which I understand is the trade weekly letter of publication in the lumber industry—

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[Tr. 1834] A. I asked Mr. Wyatt at the time if the report in Crows Digest to the effect that a strike in the lumber industry would increase plywood prices was correct or if that was given to Crows Digest by any of the companies.

Mr. Wyatt responded stating that they had not provided Crows Digest with any such information and that it would be foreign to their thinking to consider a strike for the purpose of increasing the price of plywood.

Q. (By Mr. Byrholdt) Any other matters that you recall having read General Counsel's Exhibit No. 60?

A. Well, I apparently was more specific on one point where we restated that we wanted to have a master agreement to cover all areas and all issues which I don't believe I mentioned before.

Q. Does that exhaust your recollection of May 22, 1963, meeting, Mr. Johnston?

A. Yes.

Q. When did the LSW next meet with the Bix Six or the five companies in the case of LSW?

A. Do you mean a formal bargaining session?

Q. Yes.

A. June 3, 1963.

Q. And can you tell us who was present at that meeting, whether the same parties were there, were they the same parties [Tr. 1835] present at the May 22 meeting, generally?

A. The same individuals were present at the June 3 meeting that were present at the May 22 meeting, with the exception of Mr. Marshall Leeper of U. S. Plywood was not present and with the further exception this was the first meeting with the Federal Conciliation Service and Commissioner Roy Smith was present.

Q. Now, sir, with regard to the meeting of June 3, 1963, will you again relate to us what occurred at that meeting, as best you can recall, who said what to whom, and again with emphasis, if there was any discussion of it, on the authority of the Association, the position of the LSW?

A. Commissioner Smith opened the meeting and asked for a statement of the status or position of each of the parties. I then, on behalf of the Lumber and Sawmill Workers, reviewed or Commissioner Smith the background of the problems which we had.

Q. Can you tell us what you said?

A. I outlined that we believed in an Association approach in the lumber industry, that we have for a considerable number of years, that we want such an Association on even a broader basis than they were talking about, but that we wanted it to be a two-way street.

I pointed out that the companies wanted to form an Association to give them the right of considering a strike against [Tr. 1836] one as a strike against all and that the union had to take the same position, that we wanted a unit that protected us against raides or siphoning off of one local here and there by some other means.

I stated that we had made proposals for long-range automation or planning committees which had been flatly re-

jected by the employers. We had proposed a classification committee in a master contract which was flatly rejected, and that we could not recognize the Association as a bargaining group unless they would give us equal treatment and agree to a master contract at least with sufficient points in it to provide protection that we wanted in return for giving them the protection against the unions' previous policy of selective strikes of one company at a time.

I pointed out that while there had been some minor variations and offers made on economic issues, that there had been no change in the employers' position on any of these basic points and that there had been no change of any consequence by the unions on these basic points.

Following that, Mr. Wyatt responded stating that the companies were only meeting as an Association, could not meet on any other basis, and that our proposals, were they theoretically good on a long-range basis but that it was to soon to consider the specific aspects of our proposals at that time.

Q. Was there any further discussion at the June 3 meeting?

[Tr. 1837] A. The June 3 meeting was a fairly long meeting, going most of the day, and there was considerable discussion about the economic issues, but on the points you asked about, that is what I recall.

Q. I see.

Now, I will show you what is in evidence now as General Counsel's Exhibit No. 61, previously numbered Respondents' Exhibit No. 356. This is the Association minutes of the June 3, 1963 meeting. Would you examine those, sir, and see if they refresh your recollection as to any additional matters that took place at that meeting?

[Tr. 1838] A. Yes, I looked at them.

Q. Have you read General Counsel's 61, Mr. Johnston?

A. In the main.

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[Tr. 1839] Q. (By Mr. Byrholdt) Mr. Johnston, you have read General Counsel's 61 now. Directing your attention again to the meeting of June 3, 1963, tell us if those minutes in anyway further refresh your recollection as to

what discussions were had at that meeting between the companies and the LSW relative to the Association's alleged authority and the position taken by the LSW relative to that authority.

A. As I mentioned, we challenged the authority of the employers to actually agree to a master contract. Mr. Wyatt stated that each man in the room, referring to each company, had the authority but was unwilling to do so.

Q. Unwilling to do so; unwilling to do what?

A. To agree to a master contract. I asked if it would make progress if he would drop their request for a variable work [Tr. 1840] week if we would drop our request for the master contract. Mr. Wyatt responded, "No," to that question.

Q. Do those minutes of June 3 in any other respect refresh your recollection as to what was discussed at that meeting?

A. You mean the economic issues?

Q. Yes.

A. Mr. Wyatt did state that they were looking more favorably toward the formation of a study committee on automation in the lumber industry.

Q. Did he make any proposals specifically on that point or was that the limit of his statement?

A. In a general sense, yes. He proposed that we consider a study committee to explore the impact of automation. I responded I thought that was a good step forward.

Q. Does that exhaust your recollection of what was discussed at that June 3, 1963 meeting?

A. Again, other than the discussions on economic issues, yes.

Q. Now, sir, did you have any further meeting on June 3, 1963 with any of the respondents or their agents?

A. Did I or did the full committee?

Q. Well, I will ask you, did the full committee?

A. No, the negotiations broke off in a deadlock about 3:30 in the afternoon on June 3.

Q. Now, did you have any other meetings with any member of the six companies on June 3, 1963?

[Tr. 1841] A. Yes.

Q. Will you tell us with whom and where it took place and about when?

A. Following the break off of negotiations in the afternoon of June 3, as we broke up, Mr. Hartley and I asked Mr. Lowery Wyatt if he would join us at the Congress Hotel for off-the-record discussions to see if there was some possible break in the bind we were in with negotiations completed and Mr. Wyatt said that he would as soon as he could get free from his other meeting. Such a meeting did take place in the evening of June 3 at the Congress Hotel.

Q. Where did it take place; your room?

A. In my room at the Congress Hotel. It started somewhere between 5:30 and 7:00 in the evening. I don't recall just when Mr. Wyatt arrived.

Q. Who was present at that meeting?

A. Mr. Wyatt, Mr. Hartley and I.

Q. Can you tell me what was said there as best you recall and by whom?

A. We discussed the break off of negotiations and that a strike was eminent.

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A. (Continuing) Mr. Hartley stated that they would have to increase their offer substantially on several points to [Tr. 1842] avoid a strike. We had quite a long discussion about a possible break in the committee bind that the parties were in. We also then had a discussion about the Association and a master contract.

Q. (By Mr. Byrholdt) Can you tell us generally what was said and by whom, on that topic?

A. Well, I philosophized, I guess the word would be, with Mr. Wyatt on this subject of planning and programming in the lumber industry pointing out that the industry needs stability, that it can be achieved by that method. I asked Mr. Wyatt if the union struck some of the companies, would the rest of the companies lockout. Mr. Wyatt stated that things were so confused at that time that he didn't even know what his own company would do and that they had a meeting scheduled among the Big Six following the negotiations with the IWA which was scheduled for the next day.

Q. Was anything further said in that meeting that you recall?

A. Well, I think I, at that point, asked Mr. Wyatt if he thought that such an approach of possible lockout would be legal and he responded that their attorneys think so. I think that is the gist of the discussions although the discussions lasted quite awhile; two to three hours.

Q. Following that conversation with Mr. Wyatt, did you have any other discussion with any other representative of the six companies that evening?

[Tr. 1843] A. Yes.

Q. Can you tell us with whom and where that conversation took place?

A. Mr. Otis Hallin of Crown Zellerbach in his room at the Congress Hotel.

Q. How did that meeting come to take place?

A. After the meeting with Mr. Wyatt, Mr. Hartley and I discussed that was a strike scheduled for the day after tomorrow we still did not know whether or not the members would be faced with a lockout in the nonstruck plants and I stated to Mr. Hartley—

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A. (Continuing) I telephoned Mr. Otis Hallin from the lobby phone of the Congress Hotel and asked him if he could see us and he said, "Come on up."

Q. About what time was this, if you recall?

A. 11:30, the night of the 3rd.

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A. (Continuing) Mr. Hartley and I went up to Mr. Hallin's room.

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[Tr. 1844] Q. (By Mr. Byrholdt) Just a bit louder. I have a little head cold myself and I can't hear.

A. I am sorry, I can talk as loud as anybody needs.

We went up to Mr. Hallin's room; apologized for bothering him late at night. I told him that we were concerned about the situation we found ourself in with a pending

strike and the rumors of a possible lockout that I did not think that the lockout was in accordance with my past experience with Crown Zellerbach's policy and I asked Mr. Hallin if it was a true rumor that if we struck some plants, U. S. Plywood and St. Regis, would Crown Zellerbach lock-out the members. Mr. Hallin stated that insofar as Crown Zellerbach was concerned, they were committed to the lock-out providing the other companies did likewise but that they were having a meeting on the afternoon of June 5, following a conclusion of the negotiations with the IWA, I think that was his response.

Q. Now, sir, following June 3, 1963, were there any subsequent meetings between the companies' representatives and the [Tr. 1845] LSW in negotiating or wage committees?

A. Yes.

Q. When did the next meeting take place?

A. July 1.

Q. Of 1963?

A. Yes.

Q. And were you present at that meeting?

A. Yes.

Q. Were the same parties present at that meeting as had been present at the June 3, 1963 meeting in general?

A. In general the same individuals were present with the addition of representatives of the International Woodworkers of America sitting in as observers. Mr. Harry Nelson, Mr. Gunvaldson, and Mr. Fadling.

Q. Mr. Harry Nelson, Mr. Fadling and Mr. Gunvaldson, is that your statement?

A. Yes.

Q. Now, sir, can you tell us whose auspices this was held?

A. This meeting was called by the conciliation service.

Q. Now, sir, again I will direct your attention to that July 1, 1963 meeting and particularly would request that you tell us what discussions were had between the parties relative to the Association's authority and the positions or statements made by the LSW representatives relative to that authority at that meeting.

[Tr. 1846] A. After the commissioner of the conciliation service opened the meeting, I asked how the meeting had been arranged. He said it was arranged at his request. I stated, on behalf of the Lumber and Sawmill Workers that we were now in a lockout position; and that we were not going to meet with the Association as such while our members were being locked out; that they were only there to meet with the five companies as individual companies with whom we had contracts. I stated again our position of desire of negotiating an Association contract covering all areas and all issues but that we were locked out and we are not going to continue that exploration; that there must come an end to that kind of discussion and the end of that discussion came with a lockout. Mr. Wyatt responded stating that the employers could only meet as an Association and unless we would meet with them on that basis the meeting was over. The commissioner discussed the bind that this put the situation in with neither parties changing their position and he separated the parties to see what he could do by talking with each of the groups separately.

Following that, the commissioner called us back together and without reference to the previous discussion on the various positions the commissioner stated that if the companies would make another wage offer we could proceed in the discussions. Mr. Wyatt, on behalf of the companies, did so which was rejected, as insufficient by Mr. Hartley, and meeting was ad- [Tr. 1847] journed. That was a relatively short meeting. After the first half of discussion of the positions, the latter part didn't take very long.

Q. Now, sir, do you know when the LSW negotiating committee next met; do you know when the LSW negotiating or wage committee next met with the companies with whom LSW has contracts?

A. I know that they met again on July 15, 1963.

Q. Were you present at that meeting?

A. I was not present.

Q. When were you next present at a meeting between the LSW and the companies' representatives?

A. Well, the next meeting of the committees was August 12 and 13, 1963 and I was present.

Q. Who was present for the LSW at that meeting?

A. Approximately the same individuals I mentioned before.

Q. Were any other union representatives present at that meeting?

A. Again, there was a sprinkling of observers, yes.

Q. Observers. Was the IWA represented at that meeting?

A. Yes, this was a joint meeting with the IWA committee, Lumber and Sawmill committee, the employers, and quite a few observers.

Q. And under whose auspices was that meeting conducted?

A. The conciliation service.

Q. Was there any discussion relative to the Association's [Tr. 1848] authority at that meeting?

A. Yes, the meeting started out, Mr. Hartley stated the union position of not recognizing the Association unless we could achieve these other objectives previously discussed.

Q. Would you relate what those objectives are so the record is clear?

A. They encompassed a master contract to give us equal unit status to what they wanted. Mr. Wyatt responded that they could only meet as an Association and if that was the union's position it was going to be a short meeting.

Q. Was that the essence of the discussions on authority as you recall?

A. Yes.

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[Tr. 1850] Q. (By Mr. Byrholdt) Mr. Johnston, you have testified to having been present at a meeting on August 12, 1963, and were you also present at any following meetings between the LSW wage and negotiating committee and the company representatives?

A. The August 12 and August 13 meetings ran consecutively.

Q. Continuously or consecutively?

A. Consecutively. I was present at both.

Q. Have you anything further to relate with regard to either of those two meetings?

A. There was a lot of discussion on economic issues.

Q. I have reference particularly to the authority of the [Tr. 1851] association and the LSW position or have you told us all that took place regarding that?

A. Insofar as the joint meetings were concerned, yes, I think I have.

Q. Was there any further discussion with any representatives of the companies that did not take place in the meeting room?

A. Well, following the meeting on August 13, a language committee was designated. I was designated by Mr. Hartley to be on the language committee for the Lumber and Sawmill Workers. That committee met all evening, the evening of the 13.

Q. What was the purpose of making up this committee that you described?

A. The purpose was to draft a settlement agreement with provisions of which were then incorporated in each company's and local union's contracts.

Q. Have you related to us all of the discussions relative to association authority and the LSW's position or statement relative to that that took place during the meeting or between any of the parties on August 12 or 13 that you recall?

A. Including the language committee meeting?

Q. Yes.

A. Well, no, I haven't discussed what took place in the language committee meeting.

Q. Can you briefly tell us what discussions were had, if [Tr. 1852] any, relative to the association's authority in that meeting.

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Q. (By Mr. Byrholdt) Who was present?

A. Mr. Oliver Malm, Mr. Greeley, of the International Paper Company, Mr. Frank Doherty of U.S. Plywood. I think Mr. Boddy was there for Crown Zellerbach, and I believe that Mr. Ed McMahon was there for St. Regis, although I am not certain. Mr. Harvey Nelson and Mr. Elwood Taub, who were present for the IWA, and, as I mentioned, I was there for the Lumber and Sawmill Workers.

Q. Was anyone present for Weyerhaeuser at that meeting?

A. Mr. Oliver Malm.

Q. Can you tell us what took place at that meeting relating to association authority?

A. Mr. Malm had a draft, a proposed settlement agreement which they proposed by language that each party had recognized the other party throughout the discussion period and we did not agree to that language.

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Q. (By Mr. Byrholdt) When you say to each party, to whom [Tr. 1853] do you have reference, Mr. Johnston?

A. The Lumber and Sawmill Workers, the IWA and the representation of the various companies. We had a discussion on the language of signature, whether it would be signed by each company or whether it would be signed with the language for the members of the association, signed by Mr. Wyatt or whether it would be signed for the association by Mr. Wyatt. The actual agreement reached by the language committee was that the signature would be for the members of the association which differed from the final signed copies, but insofar as the language was concerned, that was the language agreed on among them.

Q. Now, sir, do you know of your own knowledge when the lockout at Weyerhaeuser, International Paper, Crown Zellerbach and Rayonier Company was terminated?

A. A formal notice of termination of the lockout was sent by mail on August the 5. The actual date of the resumption of work at the various operations took place in the following days, not all at one time.

Q. Do you know of your own knowledge when the strike at the St. Regis Company operations and the U. S. Plywood operations was terminated?

A. At St. Regis the strike was terminated on August the 14. At U. S. Plywood the strike was terminated in some plants on August the 14 and some plants continued on strike for approximately five weeks thereafter.

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[Tr. 1854] Cross-examination

Q. (By Mr. Prael) Mr. Johnston, I understood your testimony yesterday was that you had been employed by the Western Council since 1954. Am I correct, it was also testified it has more or less been continuous employment?

A. Yes.

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Q. (By Mr. Prael) And your employment prior to 1963 for the Western Council was at all times as an economic advisor?

A. Yes.

Q. And have you been employed as a negotiator by them from 1963?

A. Yes.

Q. On what occasions?

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A. Insofar as industry matters are concerned, I believe that I assisted Mr. Hartley on all such negotiations since 1954.

[Tr. 1855] Q. (By Mr. Prael) And in those meetings you have participated not merely as an assistance but as a spokesman, is that right?

A. Yes.

Q. And as I understand your testimony prior to the opening of negotiations you discussed the position that the union should take in these negotiations with the employers with whom the LSW had contracts. You discussed that on two occasions with the Executive Board of the LSW.

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[Tr. 1856] A. On at least two occasions, as I mentioned yesterday, the January 1963 board meeting, the May 8, 1963 board meeting, and I also mentioned that I was retained to do economic research for the 1963 negotiations at the October 1962 Executive Board meeting.

Q. (By Mr. Prael) Did you furnish a statement to the NLRB at the time of this investigation to the charges filed by LSW in this case?

A. No, not at the time the charges were filed. I did subsequently.

Q. When did you furnish such a statement?

A. Approximately July 1, 1963.

Q. Was this statement furnished at the Board's request?

A. I don't know. I was told by attorney George Toulouse for the Western Council of Lumber and Sawmill Workers to make an appointment with Mr. Dale Cubbison of the National Labor Relations Board office in Portland, Oregon, at a time when I would be in Portland and to give my story to Mr. Cubbison.

Q. Did he take down the statement and then you signed it, is that it?

A. In effect, yes.

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[Tr. 1858] Q. (By Mr. Prael) Mr. Johnston, at one of these meetings I believe you testified, at one of these meetings with the executive board, you advised the executive board that the union should demand a master contract?

A. It doesn't go that way Mr. Prael. I recommended to them that they give some serious thought of adopting that as a policy. It is up to them what they do.

Q. Did you make a recommendation to them on that point at that time.

A. Yes.

Q. When did you make that recommendation?

A. January, '63, May 8, '63 and actually I have made this suggestion to them frequently for the past several years, specifically on this approach.

Q. And you told them at the May 8, 1963 meeting that the union should demand a master agreement for what reason?

A. We had been going through a series of raids by other labor organizations. There had been some decertification problems, couple. The specific discussion on May 8 was around the point that if this Association that we at that time knew nothing about, if it were going to be formed as a formal Association, which would then take away our right of selective strike because it would automatically give them a right of a lockout and if that was the kind of Association

that was being formed, then it should be a two-way street; we should then have what we have [Tr. 1859] been needing, the same protection against raids or decertification that the employers were asking for to protect themselves against selective strike or single shotting as they termed it.

Q. Single shotting or selective strike is the same as whip sawing?

A. No, to me it is not.

Q. (By Mr. Prael) What is the difference between selective strike and whip sawing as that term is used in labor relations?

A. Whip sawing to me means you get five cents from this company to break the ice. Then, you use that to get seven cents from another company and you are whip sawing one company at a time to get into a higher level, quite different from a selective strike or single shotting.

Q. (By Mr. Prael) Isn't the term whip sawing in labor relations generally applied to what you call selective strike?

A. Not to me it is not.

Q. (By Mr. Prael) You are not familiar with the term? [Tr. 1860] A. Not in the lumber industry.

Q. You are acquainted in labor relations limited to the lumber industry?

A. No.

Q. (By Mr. Prael) Are you familiar with how the words whipsaw strike is used in National Labor Relation Board decisions?

[Tr. 1861] A. I don't know. My reason for saying I don't know is that I don't know that the National Labor Relations Board has always been consistent in every time a decision refers to whipsaw.

Q. Did you read the decisions regarding whipsawing decisions of the National Labor Relations Board regarding whipsawing before you gave this advice to the LSW?

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A. Not as such, now.

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Q. (By Mr. Prael) Didn't you tell the LSW executive board that in order to get unit protection that they should demand a master contract?

A. Yes.

Q. You told them without a master contract they would not have unit protection?

A. I told them that they would be in effect giving the employers the very thing that they want without getting what the union wanted and they ought to have both.

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[Tr. 1862] Q. (By Mr. Prael) What did you mean by the previous answer, without a master contract, the employers were getting what they wanted but the union was not getting what they wanted?

A. I think I explained that in some detail yesterday. Briefly, when the letter of April 17 to 19 arrived from each company delegating certain items to an Association, I interpreted that to mean a delegation of authority to agents, the same as we have received from previous years from T.O.C. But, the term Association raised these other questions: What kind of an Association; Is it to be a collective bargaining unit with two-way streets for both parties or is it to be just a one sided thing where the employers wanted a group protection against selective striking but would not give the union a group protection against selective raids.

Q. Now, you told the union, without a master contract the union couldn't get unit protection, is that right?

A. I don't believe I stated that in that form. I stated to the union that in my opinion the best way to accomplish [Tr. 1863] their objective would be to obtain a master con-

tract. I do not believe I stated there was no other way of accomplishing it.

Q. You didn't tell the union then that they had to have a master contract in order to get unit protection?

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A. I have never told the union they had to do anything.

Q. Did you tell the union—did you not tell the union then in order to get unit protection a master contract was necessary?

A. As a practical matter, yes.

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Q. (By Mr. Prael) Did you go to law school?

A. No.

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[Tr. 1866] Q. (By Mr. Prael) Mr. Johnston, you have a firm, do you?

A. Yes.

Q. What is the name of the firm?

A. Daniel M. Johnston & Associates.

Q. And is that, what does that firm do?

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A. I am in the field of collective bargaining. The firm is a partnership engaged in providing economic research and consulting to labor organizations and in addition we act in an advisory capacity on joint employer-union health and welfare, pensions, vacations, and apprenticeship funds.

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Q. (By Mr. Prael) Mr. Johnston, is the fact that your firm is engaged in the administration of health and welfare plans have any connection with the fact that you advised the LSW to try and get a master contract?

A. No.

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[Tr. 1867] Q. (By Mr. Prael) Isn't it a fact, Mr. Johnston, that the possibility of getting a master contract with the Association in this case would have been a start toward securing an overall health and welfare plan which your firm might be able to administer for a fee?

A. No.

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Q. (By Mr. Prael) You are—your firm does administer health and welfare plans of the LSW?

A. Not in the Northwest.

Q. In California?

A. Yes.

Q. You and your firm obtain a fee for that service, isn't that right?

[Tr. 1868] A. Yes.

Q. (By Mr. Prael) Now, isn't it a fact, Mr. Johnston, that at the time you made this recommendation to the LSW executive board regarding the advantageousness of a master contract you knew as an experienced labor relations expert that that did not change the unit protection one bit but it would be a step toward a possible creation of a health and welfare plan which might some day be administered by your firm at a profit?

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A. No on both questions.

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[Tr. 1870] Q. (By Mr. Prael) Mr. Johnston, what do you mean by a master contract? How do you use the term when you made that recommendation to the executive board of the LSW?

A. As a contract that would encompass several of the existing collective bargaining units, plant by plant, into a unit covered by master contract that would include several of the local units.

Trial Examiner: I am not sure that is clear yet, Mr. Johnston.

The Witness: All right. At the present time, in most of the lumber industry, not entirely, the contracts are between a company and a local union in each locality. The con-[Tr. 1871] tracts are opened by either the company or the local union with their collective bargaining unit. What we were discussing was a method of preventing either siphoning off a particular plant by a raid or siphoning off a particular plant by a decertification by encompassing a great many plants into a single contract.

As I explained the meaning to the employers, that they or some of them had been through this experience both of the pulp and sulfate to the printing specialities unions and they knew exactly what we were talking about and the purpose for it.

Q. (By Mr. Prael) Now, the reason you recommended this, as I understand it, the reason you gave the LSW executive board for recommending that they try to get a master contract was that would prevent decertification petitions and raids, is that right?

A. On a plant-by-plant basis.

Q. On a plant-by-plant basis.

A. Yes, in my opinion.

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[Tr. 1875] Q. (By Mr. Prael) Mr. Johnston, minutes of the executive board meetings are furnished to you, are they not?

A. Sometimes.

Q. And do you have them in your possession, copies of the [Tr. 1876] January 1963 executive board minutes?

A. I don't know for sure. I do not think so, but I do not know for sure.

Q. Would you be willing to look and see?

A. Surely.

Q. And will you advise us before the hearing is over.

A. Whenever I get an opportunity.

Q. Now, I will show you the affidavit you gave the Board dated July 2, 1963, subscribed and sworn to before Mr. Cubbison. This is a little difficult to read, this copy, but I think you can make it out, and I will call your attention to the following paragraph; I will read it.

Mr. Byrholdt: On what page?

Mr. Prael: Page 3.

Q. (By Mr. Prael) "January 1963 the Western Council executive Board met in San Francisco. I was present. They decided that without a wage increase in 1962 and due to raids by other labor unions and due to the complete membership demands for substantial wage increases—that they would recommend to all members, locals and council, that contracts be opened; that bargaining authority be given to the Western Council (not already given) and that the local unions open all contracts and propose a new three-year contract with a 60 cents per hour total cost increase. The locals did open all contracts with all companies that were subject to reopening at that time. [Tr. 1877] These opening letters were sent in May or prior thereto."

I refer to this paragraph, other than the last two sentences, is that a fair summary of the executive board meeting in San Francisco in January of 1963?

A. On that subject, yes.

Q. By that subject, are you referring, including the fact that in this statement of yours given to the Board in July of 1963, that the subject referred to in that paragraph included the subject, includes reference to raids by other labor unions and the action to be taken as a result thereof?

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A. The specific answer to your question would be no, it did not include all subject matters discussed.

Q. That was not my question. You said, as I understood it, that what I read was a fair statement of the proceedings of the executive board on the subject referred to in the paragraph, or on those subjects was your terminology. Now, is that your answer?

A. Yes, I said that.

Q. Now, included among those subjects referred to, you had in mind, did you not, the fact that this statement which you [Tr. 1878] said is a fair statement includes reference to the subject of raids by other labor unions and the action to be taken as a result thereof?

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A. That is a correct statement of the action taken as I mentioned yesterday, the same thing would be correct here . . .

Q. (By Mr. Prael) There was another executive board meeting in February, was there not?

A. Not that I recall.

[Tr. 1879] Q. Oh, was it May?

A. Yes.

Q. First one was in January and the second one was in May, is that right?

Mr. Byrholdt: He has testified to that.

Q. (By Mr. Prael) What was the next executive board meeting after January that you attended?

A. To the best of my recollection May 8, 1963.

Q. You know of no other executive board meeting between that date, January, and May?

A. Not that I recall.

Q. At the executive board meeting on May 8, 1963, did the executive board reaffirm the position it took in January 1963, reflected in your statement to the NLRB which I just read to you?

[Tr. 1880] A. Insofar as the 60 cent wage proposal is concerned, the executive board restated that policy as I have testified to, the executive board in May discussed other aspects and other matters in great detail because of the unknown quantity or quality of the word Association that appeared in the companies' letters of April 17 and 19.

Q. (By Mr. Prael) Did the executive board, on May 8, 1963, reaffirm the position of the union that the position taken in [Tr. 1881] January that the union should propose and secure a possible three-year contract?

A. The executive board restated that, yes.

Q. Now, Mr. Johnston, isn't it a fact that in the discussion both in the January meeting and the May meeting of the executive board, it was stated and agreed upon that the

union should secure the possible three-year contract to prevent raids by other unions as a protective step against such threats?

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A. Not as such, no. May I explain my answer?

Q. (By Mr. Prael) I don't require any explanation.

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[Tr. 1882] Q. (By Mr. Prael) Did you testify that at the January meeting the question of a master contract and the necessity of such a master contract to avoid raiding was discussed?

A. Yes.

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Q. (By Mr. Prael) Didn't you testify that you advised the executive board that a master contract was a necessity to avoid such raiding by other unions?

A. As a practical matter I told them I thought it was desirable, yes.

Q. What do you mean by a practical matter?

A. Well, in the lumber and sawmill industry the local unions [Tr. 1883] hold the contracts as recognized or certified collective bargaining units. While there may be other methods of getting them consolidated into a broader unit as a practical matter I thought and Mr. Hartley thought in my discussions with him prior to board meetings that the approach and only possible approach would be to obtain a master contract that would include the plants of several companies within a single unit.

Mr. Prael: Would you read that answer back please?

(The previous answer was read by the reporter.)

Trial Examiner: There was one word I missed.

(The previous answer was again read by the reporter.)

Mr. Prael: I asked him to say—I thought he said practical and then in another sense he said it was the only possible approach.

Trial Examiner: It is not quoted either way so let's let the witness straighten it out.

The Witness: And the only practical approach.

Mr. Prael: You didn't say it was the only possible approach.

The Witness: I think I did, but in using the term possible it is possible within the framework of what is possible to do.

Q. (By Mr. Prael) At the May 8 executive board meeting, did you advise the executive board again that the only practical or possible approach to barring or preventing raids was with a master contract?

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[Tr. 1884] A. I don't think that I stated it was the only possible—in the sense of maybe legally possible, but it would be the only possible or practical approach they could take within the framework of what they might hope to accomplish.

Q. (By Mr. Prael) At that time, on May 8, were you advised of or had you seen the delegation of authority by the U. S. Plywood, St. Regis, and the other three members of the Association who dealt with LSW, had you seen their letter of delegation of authority to the Association?

A. I do not believe I had seen all of them. I had seen some and Mr. Hartley reported that similar letters were received from the others.

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[Tr. 1892] Q. (By Mr. Prael) Mr. Johnson, in your testimony yesterday testifying regarding the executive board meeting of May 8, 1963, I am referring to pages 1789 and 1790, my copy is marked up, if you show him another copy it is satisfactory—

Trial Examiner: I have the original here. I will show it to the witness.

Q. (By Mr. Prael) As shown on page 1789 you were testifying about the executive board meeting of May 8, 1963 continuing over to the top of page 1790 reference is made to certain letters of [Tr. 1893] April 17 through April 19

constituting a delegation of authority. You will find that reference on lines—beginning on line four and following that I take it has reference to R-202, 204, 58 et cetera.

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Trial Examiner: I think the word was letters, not letter.
Mr. Prael: Yes, it should be letters.

Q. (By Mr. Prael) I will read to you the statement I have reference to. I pointed out to the Board that the executive board of the LSW, "That letters of April 17 through 19 constituted a delegation of authority to an agent and by themselves they were no different from, in my opinion, previous delegations by TOC members of Forest Products Operators members, predecessors of the TOC in previous years." Do you recall that testimony?

A. Yes.

Q. I will show you R-204. Is this one of the letters which you had reference to? That is a letter on the letterhead of International Paper Company dated April 19, 1963 addressed to the Western Council and signed by Mr. J. J. Greeley, director of industrial relations.

A. Yes, that is one of the letters.

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[Tr. 1896] Q. (By Mr. Prael) Now, Mr. Johnston, you are familiar with letters of delegation over the years to TOC, are you not?

A. I have seen some.

Q. You have seen some. And was it to those letters that you had seen that you referred when you gave the testimony that the letters of April 17 through 19 constituted a delegation of authority to an agent and by themselves were no different from in my opinion previous delegations by TOC members. Are you in that sentence referring to previous delegations by TOC members that you had seen?

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A. Either seen or at the first meeting with TOC they would state the delegation that they had received.

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[Tr. 1897] Q. (By Mr. Prael) Mr. Johnston, in your testimony on page 1790 you gave an opinion or stated an opinion regarding certain delegations of authority by TOC members. Can you tell us what those delegations of authority provided?

A. Not in language, no. I can tell you my understanding of the procedure.

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[Tr. 1899] A. I do not recall that specific language in the letters but as I stated, whether they said it or not, the actual procedure and the form was as I outlined, a delegation with bargaining authority, a joint recommendation going back to all participating companies and unions, the right of rejection or acceptance at that point. Although, as a matter of fact, the companies that were on the TOC negotiating committee all extended their own recommendations on the points they were involved in. If they were not going to agree they would state so in advance as U. S. Plywood and International Paper did in 1961 in connection with pensions. They said, "We are not part of this TOC negotiation on pensions."

Q. (By Mr. Prael) You understood at least that the delegation to TOCO contained the reservation at that time that the party delegating could reject the recommendations of the TOC negotiating committee and insist on further negotiations. You [Tr. 1900] understood that regardless of whether it was in any letter?

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A. I understood it but in a reverse sense. The only method by which TOC would negotiate. It also went back as a recommendation to their members and could be rejected at that point.

Q. Each party could reject for itself?

A. That is right.

Q. I will show you 204, Respondents' 204. Was it your view that the delegations shown in R-204 similarly reserved the right of International Paper to reject any settlement arrived at in the course of negotiations between the union and the Association therein referred to?

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A. This particular letter or similar ones from the other companies stated that the company itself would be present at the negotiations so in my mind I saw no difference from that and the company being present at a TOC negotiation stating he would not be bound by a particular subject.

Q. (By Mr. Prael) But I am asking you the converse. Did you find anything in these delegations of authority, this one, R-204, 558, 329, et cetera in anyway peculiar to your mind? Was there anything in R-204 or any similar letter you [Tr. 1901] referred to, from one of the respondents, in your testimony on page 1790? Was there anything in those letters that lead you to believe that the delegating company was reserving the right to accept or reject as it please, the results of the forthcoming negotiations between the Association and your union?

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A. The answer is a negative. I did not see anything in these letters which said that the previous and customary procedure would not be followed.

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Q. (By Mr. Prael) Can you tell me whether there is anything you read in the April 19, 1963 letter of International Paper which is R-204 which indicated that International Paper was reserving the right to accept or reject results of the negotiations referred to therein between your union and the Association?

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[Tr. 1902] A. My answer would be no, but the full answer can only be what I stated before. I did not read these

letters to indicate that anybody would agree to be bound by anything. The fact they did not include a statement that they were not bound did not impress me one way or the other. I assumed it was the usual delegation of authority that I testified to.

[Tr. 1903] Q. (By Mr. Prael) When you met on May 9, Mr. Wyatt told you, did he not, and the other representatives of LSW, that the Association was so organized, proposed to bargain as an association binding all of its members on the result of negotiation? He told you that, didn't he?

A. Mr. Wyatt stated that each company was bound by any settlement reached in the discussions with the Association members.

Q. Yes.

Now, was that the first time that this occurred to you as being the case?

A. Yes, the first time it was said. I am not at all sure that I accepted that as being the case the first time Mr. Wyatt said it.

Q. As I understand your testimony, Mr. Wyatt represented to you that he was speaking for the Association on May 9?

A. That is what he said, yes.

Q. And he represented to you on May 10 that he was speaking for the Association, isn't that right?

A. I believe that is correct.

Q. And he represented to you on May 22 that he was speaking for the Association?

A. I think that is correct.

Q. He also represented to you on June 3 that he was speaking for the Association, as an association, isn't that right?

[Tr. 1904] A. Yes, I think he said that.

Q. Did he, during any of those negotiations, make a proposal other than on behalf of the Association, as an association, representing all its members?

A. From his statements?

Q. Yes.

A. No.

Q. As I understood your testimony, you took the position on May 9 that the representatives of the LSW there

present could only bargain for all locals within the council and on all issues and had not authority to bargain otherwise, is that right?

A. No, I didn't say—

Q. (By Mr. Prael) Please state what you said.

A. All locals within the Western Council involved with these particular companies, there are lots of other locals in the Council.

Q. Well, in your testimony you used the term you had no authority to bargain except for all locals on all issues. By referring to all locals you meant all locals within the Council that had dealings with the Association?

A. No, with these five companies.

[Tr. 1905] Q. With these five companies?

A. Right.

Q. And what did you have reference to in saying all issues in your testimony?

A. Well, as I outlined yesterday, we had a serious issue on health and welfare concerning four of the five companies, we wanted to straighten it out, the dependancy coverage in the Western Council-T.O.C. health and welfare trust. We felt that two or three of the five companies were influential—

Q. (Interrupting) I don't want to block you off from any necessary explanation, but my question is what did you mean by issues. I take it health and welfare, as you described it, was one of such issues. Were there others? We will come back to that. You will have a chance to explain.

Trial Examiner: I don't think you should take it on the basis of the testimony thus far.

Were you embracing the words "health and welfare" within the "all issues"?

The Witness: Yes.

Q. (By Mr. Prael) What else were you concerned with?

A. The proposals that we subsequently made which I outlined yesterday, with the exception I left one out and that was the bracket adjustment for skilled employees, namely, master contract to be concluded within the first year of a three-year agreement, in sufficient quantity to provide us with sufficient [Tr. 1906] unit protection; automation committee in that master agreement to study an ultimate development in the lumber industry with particular emphasis on the impact on employment or displacement of employees; the classification committee to make adjustment on a uniform classification of jobs, change of duties.

Q. Is that different than bracketed adjustment?

A. It could be because it could be a new job. They had a proposal and pro-rated vacations for retired employees, proposal to prohibit contracting work out from under us during the life of a contract; 60 cents wages increase during the three-year period; and I think I mentioned the bracket adjustment matter.

Q. The eighth one was health and welfare? I listed seven, health and welfare was the eighth, is that right?

Let me run them through:

Bracket adjustment; master contract as you spelled it out, with sufficient quantity to give you unit protection; automation committee; classification committee; pro-rated vacation; prohibition against subcontracting; 60 cents wage increase in three years; and health and welfare.

A. And a three-year agreement.

Q. That would make nine?

Now, the Association did bargain with you on all of these items except health and welfare, isn't that right?

[Tr. 1907] A. Well, we talked and discussed all the items except health and welfare.

Q. During the meetings there was extensive discussion, pro and con, on each one of these items except health and welfare, isn't that right, whatever the discussion amounted to?

A. Yes, but in our proposal on a master contract then, we got into discussions and proposals of how to handle union security and pensions as well as the immediate pro-

posal and health and welfare. All these matters were discussed, yes.

Q. Now, coming to health and welfare, as I understood it, would you propose to bargain health and welfare with the Association at these meetings?

A. On the original discussions on May 9, in discussions their exclusions included health and welfare.

Q. The exclusions were what, health and welfare?

A. Pensions, union security, local issues; we specifically discussed our problems on health and welfare and as I testified yesterday, if you want me to repeat it, the results of those discussions—

Q. (Interrupting) I recall your testimony yesterday, but I am asking you, I couldn't understand from reading your testimony or hearing it yesterday, whether you were stating that LSW proposed and desired to negotiate health and welfare with the Association in this bargaining. Did it or didn't it?

A. We stated we wanted to. They refused to accept anything [Tr. 1908] on health and welfare, so, by the time we had reached the general understanding of their position and our position and that we would be bargaining for all issues and all areas and they would be speaking only for restricted areas and restricted issues, and we handed them the letter of May 8.

Q. That is on May 9 you are talking about?

A. Yes, we handed them a letter dated May 8. At that point with the two positions clearly understood, I thought at the time we then proceeded to submit to them first the letter of April 11 on general economic approach and second those specific proposals which they would accept for discussion at that time. Then, to answer your specific question, we did not then again demand further discussion on health and welfare as a specific item because it was one of the general areas to be discussed in connection with authority, master contract, and so forth, to be explored, so to speak.

Q. To be explored?

A. Right.

Q. As a matter of fact, the discussion on May 9 regarding health and welfare was limited to a statement

by you, was it not, that you proposed to renegotiate with T.O.C. on the LSW-T.O.C. Trust?

Mr. Byrholdt: That was not his testimony.

A. That is not a correct statement.

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[Tr. 1909] Q. (By Mr. Prael) Mr. Wyatt told you at the first meeting that the Association either was unwilling or did not want to bargain on health and welfare in these negotiations, didn't he?

A. Neither; he stated they couldn't.

Q. They couldn't and wouldn't?

A. That's right.

Q. And thereafter when you referred to the fact that you had no authority to bargain except for all issues, were you including in all issues health and welfare?

A. At the time I made that statement, yes.

Q. And how many times did you make that statement? Did you make it on May 9?

A. Yes.

Q. Did you make it on May 10?

A. I think that I made the statement, regardless of words [Tr. 1910] used, I got the meaning across at every meeting we had.

Q. At all times you included health and welfare?

A. I did not exclude it.

Q. You did not exclude it. Well, did you include it?

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A. No, for the reasons I already outlined to you. The whole explanation of what happened on May 9 and we agreed we would discuss those items that both parties had authority to discuss and try to explore these other approaches, so, while I did not exclude health and welfare in subjects discussed, I didn't specifically include it.

Q. After May 9, health and welfare never was mentioned by anyone, was it, up to the time the contract was signed?

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A. I am certain that it was. On June 3 in conciliation meeting, when the conciliation service asked us to outline the positions of each party, I am fairly certain that I then again reviewed for the Commissioner's benefit the exclusions and the fact that the Association's demands or restrictions were forcing us to bargain on at least three different levels.

[Tr. 1911] I explained to the Commissioner at that meeting that it was not only three basic levels of bargaining but in some case four levels, and in the St. Regis it was actually five levels of bargaining. I could state in more detail that discussion, if you desire.

Q. As a matter of fact, prior to June 3 you had started negotiation, or tried to start negotiations with T.O.C. on the LSW-T.O.C. Trust, hadn't you?

A. Prior to May 9, yes.

Q. What had they told you? It wasn't open for negotiations, isn't that right, isn't that what they told you?

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A. Certainly not that I recall.

Q. (By Mr. Prael) When did you start negotiations with T.O.C., before May 9 on health and welfare?

A. Yes.

Q. On the T.O.C.-LSW Trust?

A. Yes.

Q. When did you start negotiations with T.O.C. on the T.O.C.-LSW health and welfare trust?

A. I think the first meeting with T.O.C. was—I don't recall. Anyhow, it was prior.

Q. Before May 9?

A. Before May 9.

[Tr. 1912] Q. Those negotiations were still pending at the time you walked into this meeting with the Association and demanded they bargain for the same thing, is that right?

A. Yes, Mr. Prael. See, you don't understand.

Q. I understand very well.

A. Four of the six companies that are parties to the T.O.C. health and welfare—it is our understanding three of the companies are on the executive board of T.O.C. as

I testified yesterday there was no point in talking to T.O.C. by itself with the big one over here would sit over here and instruct them to say no. We wanted them to say yes in the Big Six meeting. Then T.O.C. would automatically follow and do what their big companies instructed them to do, otherwise, we are left ham-strung, as it turns out.

We talked to T.O.C. about health and welfare. The big companies that are members of T.O.C. sit in the background having an executive board meeting and tell them to say no. That is exactly where we ended up.

Q. You are testifying you began negotiations with T.O.C. on the T.O.C.-LSW health and welfare trust prior to May 9, 1963?

A. I think the first meeting was prior to May 9.

Q. And for how long did those negotiations go on?

A. I can't answer your question because our position to T.O.C. was that they were merely repeating what the Big Six did and they would do nothing unless the Big Six did and if the [Tr. 1913] Big Six made an offer they would repeat the offer when we met them. I do not characterize that as negotiations.

Q. Are you talking about negotiations on T.O.C.-LSW health and welfare trust?

A. I was, yes.

Q. And, as a matter of fact, did T.O.C. refuse to bargain with you on the health and welfare trust for 1963?

A. Not that I know of.

Q. Did they make you an offer?

A. They said no.

Q. Did you make a demand on them?

A. Yes, as I explained.

Q. Was it after they had said no that you brought this matter up with the Association?

A. Not that I recall, no, I think the first meeting with T.O.C., if my memory is correct, was held prior to May 9. We outlined our problems and some proposals and I don't believe we received any answers from T.O.C. at that first meeting, except one.

Q. Was the T.O.C.-LSW health and welfare plan open for bargaining in 1963 by anyone?

A. We certainly made the request, Mr. Prael. If you have a technicality in mind, I have forgotten, I don't know. We certainly discussed it.

Q. You discussed it with T.O.C. and they said you had not opened [Tr. 1914] and they weren't going to bargain on it, don't you recall that?

A. I don't recall that.

Q. You were there, weren't you?

A. I was there.

Q. Who else was there?

A. Mr. Glos, Carl Glos, Mr. Baker, and some others from T.O.C., I don't recall who, and the union, Western Conference wage committee have already identified them. Then they have said it was, may have said it wasn't open, but I don't recall agreeing with them and I don't recall them saying it. That doesn't mean they didn't say that, they may have said it.

Q. They may have said it?

A. I don't recall them saying it.

Q. Well, your bargaining with T.O.C. on the LSW-T.O.C. health and welfare trust blew up as soon as it started, didn't it?

Mr. Byrholdt: Pardon? I want to hear the last question.

A. It never got off the ground.

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[Tr. 1915] Q. (By Mr. Prael) LSW had a contract with T.O.C. providing for health and welfare, is that right?

A. Yes.

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[Tr. 1916] Q. (By Mr. Prael) Would you describe this contract you said existed between the TOC and LSW relating to the health and welfare trust? There was such an agreement?

A. There is such a contract in this sense. The trust agreement entered into between TOC as authorized by participating employers, not necessarily members of TOC, and the Western Council of Lumber and Sawmill Workers, when you asked the question, is that a contract, any con-

tract, on health and welfare, I thought you were referring to the trust agreement. There is no collective bargaining agreement.

Q. Your first assumption was correct. My question was, was there a contract between TOC and LSW relating to health and welfare because I quite frankly understood there was such a trust agreement and that agreement was between TOC as a signatory party and the union LSW?

A. Yes.

Trial Examiner: You mean TOC was one of the trustees?

The Witness: TOC is one of the trustors. TOC signs it and Western signs it as trustor.

Q. (By Mr. Prael) They are joint trustors of this trust under this trust agreement?

A. That is correct.

Q. And is a trust agreement for the benefit of the employees really of participating employers whether or not they are [Tr. 1917] members of TOC?

A. Yes. This is one of several similar trusts I mentioned yesterday that exist in the lumber industry.

Trial Examiner: May I get straightened out on one thing.

Did this trust agreement have any time limitation to it or was it open ended?

The Witness: It continues in effect for so long as there are in existence collective bargaining contracts between employers and lumber and sawmill unions to continue it. They come and go but as long as there is one employer and one union you have a trust agreement.

Trial Examiner: Do you mind if I straighten myself out one or two other things?

Mr. Prael: No.

Trial Examiner: In each one of the employers' agreements where the employers were contributing to this trust, was there some specific agreement for such a contribution or a trust?

A. The Witness: Yes, there is a specific provision in the collective bargaining agreements stating what trust that particular employer will make certain amounts of contri-

butions to and the purposes of that trust and an agreement that the employer is bound by the terms of the trust agreements and the collective bargaining contracts control both the amount of money each employer is to contribute, plus in this case control the issue that we had on dependency status. Collective bargaining of [Tr. 1918] contracts, in other words, restricted the trust to employee coverage only and we wanted to include dependents in that trust under the employer contributions.

Trial Examiner: If you don't mind, Mr. Prael, if you are going into this anymore, I would like to ask him some questions.

Q. (By Mr. Prael) The trust agreement limits employers to contributions for what?

A. The collective bargaining agreements control the rate of contribution and in this case controlled the issue we had restricting the trust to employee coverage only and we wanted through collective bargaining to include dependents as part of the trust under the employer contributions.

Trial Examiner: If I understand you correctly, this would have been a bargainable subject with those employers whose contracts were opened at that point of time, is that right?

The Witness: Yes.

Trial Examiner: And were any of the contracts which you had with any of the members the Big Six concerning health and welfare still not open for bargaining on health and welfare at the time of the other bargaining in 1963?

The Witness: I cannot answer for all contracts. I don't know that they were not opened but I cannot state for a fact that all were opened. I know some were opened. I have never seen all of them.

[Tr. 1919] Trial Examiner: You mean some of the Big Six had contracts that could be opened on that subject?

The Witness: Oh, yes.

Trial Examiner: All right, proceed.

Q. (By Mr. Prael) You stated that the contracts could be opened on that subject. Were they opened on that subject?

A. To the best of my knowledge they were.

Q. Which contracts?

A. Well, that would include International Paper, Crown Zellerbach, U.S. Plywood, St. Regis's one plant, Northwest Door.

Q. Now, how many contracts between International Paper and locals of LSW were opened on health and welfare?

A. I don't know.

Q. How many contracts between Crown Zellerbach and LSW locals were open on health and welfare?

A. I don't know.

Q. How many contracts between U.S. Plywood?

A. I don't know.

Q. The case of St. Regis?

A. There is only one contract participating in TOC health and welfare so there could only be one open, if it was open.

Q. Do you know whether it was open or not?

A. I do not know, sir, as a fact.

Q. Is it your testimony that to the best of your knowledge some of the contracts were open but you don't know which ones, is that your testimony?

[Tr. 1920] A. Yes, I had no occasion to check.

Q. Didn't you check that before you proposed to bargain on this with the association?

A. I personally had no occasion to check that.

Q. All of these companies that you have mentioned were participants under the TOC-LSW trust?

A. For some plants?

Q. For some plants.

A. As I mentioned, U.S. Plywood and International Paper in California are participating in the joint trust there and on the Hazard Trust which includes the dependents that we wanted to include here.

Q. You didn't want to bargain on those provisions, the provisions of contracts with U.S. Plywood and International Paper that had to do with the Hazard Trust?

A. No, we had what we needed in those contracts.

Q. But you did want to bargain with International Paper, Crown Zellerbach, and U.S. Plywood, one plant for St. Regis if they were opened and to the extent they

were open in respect to their participation in the TOC-LSW Trust, is that right?

A. That's correct.

Q. Now, you requested the association to bargain on that at the first meeting, is that correct?

A. As I already explained, we did not get around to the point of proposals or counter proposals. I can restate my [Tr. 1921] previous testimony, if you would like. The employers' letters of exclusions excluded health and welfare, union security, pensions, and local issues. We discussed the problem that their exclusions created for us by compelling us to bargain on several different levels and we discussed a specific problem that health and welfare created for us under their approach where they were in our opinion a controlling company of TOC saying they won't bargain on it and then we go to TOC and they can instruct TOC to say, no.

Q. TOC had already said no, hadn't they?

A. By May 9, I do not believe so.

Q. Did you check the contracts when TOC told you that the health and welfare provisions were not open for bargaining?

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[Tr. 1922] Mr. Prael: I was not there. Quite frankly I am informed this witness did make a demand to bargain with TOC on health and welfare in the month of May of 1963 and he was told the contracts were not open for health and welfare bargaining and that was the end of it

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Trial Examiner: Perhaps the witness will be able to answer whether or not he thinks your information is correct.

The Witness: I don't think so.

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Q. (By Mr. Prael) Are you stating you have no present recollec- [Tr. 1923] tion on whether that did or did not happen?

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A. I am sorry. I am a little lost on that question. By "that", what are you referring to?

Q. (By Mr. Prael) You gave an answer a few moments ago that you didn't think so. Do you recall what that was in answer to?

A. Yes.

Q. All right, now, by that answer "I don't think so," could you mean at the present time you cannot recall whether it did or did not happen? What do you mean by, "I don't think so?"

A. I do not recall the health and welfare issue being dropped on the basis of a statement by TOC that the contracts weren't opened. I do not think that happened.

Q. Whether or not it was dropped on that basis, don't you recall that TOC told you that TOC representatives told you, brought up the subject that they would not bargain on health and welfare because the contracts were not open on health and welfare?

A. No, I do not recall that.

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[Tr. 1924] Q. (By Mr. Prael) Now, let's turn to pensions. You were advised by the letters before your meeting of May 9 that the association did not intend to bargain on pensions in those negotiations. Did you ask the association to bargain on pensions in those negotiations?

A. No.

Q. You were advised by letters before May 9 meeting with the association that the association did not intend to bargain on union security. Did you at any time during those negotiations request that the association bargain on union security?

A. Yes, sir.

Q. When?

A. In the discussion in connection with master contracts, I specifically asked them if they would agree to a uniform union security provision in a master contract. I think that was discussed on a couple of occasions.

Q. At that time that was discussed on a couple of occasions, that was one of the matters you wanted to include in the uniform contract?

A. Yes.

Q. Now, you wanted a uniform union security provision, is that right?

A. Yes, in a master contract.

Q. In a master contract, yes. Now, what company's contracts were open on union security at that time?

[Tr. 1925] A. I think St. Regis had opened had opened all contracts on all issues. I believe that that was really the only actual contract opening, as such, on union security but I think that there was no signed agreement at that time between Weyerhaeuser and the Arcada local union on their agency shop or maintenance of member provisions. I don't believe that contract was signed in that respect.

Q. And you had a union shop agreement already with St. Regis, didn't you?

A. Yes.

Q. Did you want St. Regis to change that?

A. Yes, in the form. We wanted to put it in a master contract for all companies and all plants instead of in each individual plant agreement. That was our original proposal as I have outlined.

Q. You proposed that at the May 9 meeting?

A. Yes.

Q. All of the companies had union shop provisions with LSW except one?

A. Yes.

Q. And you proposed to make that one uniform with the others, is that right?

A. That was our original discussion, yes.

Q. Who was the one that did not have a union shop provision?

A. Weyerhaeuser.

Q. Were the contracts open on union security contracts with [Tr. 1926] Weyerhaeuser other than the Arcata contract opened on union security, is that right?

A. I already said, no, not to my knowledge.

Q. How many other contracts did LSW have with Weyerhaeuser in this area?

A. I don't know. By that "I don't know" I mean I don't know anything about it. I don't know the exact number.

Q. There were several others?

A. Three, four, or five.

Q. Did the representatives of the association refuse to discuss a uniform union security provision with you?

A. They said they had no authority to discuss it which is a discussion, I suppose, by itself.

Q. They had no authority to discuss union security with you?

A. Yes.

Q. They told you that at the May 9 meeting?

A. Yes, as well as the letters.

Q. Coming to the matter of geographical plant limitations, as I understood your testimony, you told the representatives of the association that you had no authority to bargain without inclusion of those plants?

A. That is correct.

Q. Did you tell them that on May 9?

A. Yes, sir.

Q. Told them that on May 10, did you?

A. It was a carry over. Yes, I am sure we did.

[Tr. 1927] Q. Did you tell them that after you saw the telegram from Mr. McMahon?

A. Yes, not necessarily on May 10, but later on in the other meetings.

Q. Well, did you tell them that at any time after you saw the telegram on May 10 and prior to the filing of the unfair labor practice charge?

A. Yes.

Q. Tell us when?

A. June 3 for one time. I don't know the date of the unfair labor practice charges.

Q. Well, they were filed sometime in the middle of June, isn't that right, about June 13?

A. There abouts. I think so. I just don't know. I think we stated it in a general sense, I guess every meeting that occurred on the basis of our demands to bargain a contract on all issues in all areas.

Q. At each of the meetings after May 10, you said then that you had no authority to bargain except for all plants including or all locals?

A. That is not what I said, Mr. Prael.

Q. What did you say?

A. I said that on June 3 I think we stated it that way. At all other meetings I think we included it as part of our statement that we wanted to bargain a contract on all issues for all areas. The reason I specify June 3, that was the meeting at [Tr. 1928] which the Federal Conciliation Service requested an outline of our original position and present position. I think I outlined everything to him at that time.

Q. Now, when did you get authority to bargain for the locals excluding east of the Cascades?

A. By "you" you mean the Western Council?

Q. Yes.

A. Never did.

Q. You had authority to sign the settlement on August 13, didn't you, for LSW?

A. That is unrelated to your previous question.

Q. Well regardless of whether it is related or not, LSW had authority to sign the August 14 settlement?

A. The LSW had authority to sign as a recommendation to the local unions any document it saw fit to sign.

Q. In other words, in order to bargain, to recommendation which is all the Western Council could do, it didn't need authority, isn't that right?

A. No, it is not.

Q. Did the authority to bargain for the locals change between the time you told them on—you told the association representatives on May 9, we haven't authority to bargain except for all locals for all areas at the time the settlement agreement of August 14 was signed?

A. Your question is was there any change in the authority [Tr. 1929] from the local unions to the council?

Q. Yes.

A. No, there was not.

Q. What authority were you talking about when you told Mr. Wyatt and the other representatives of the association on May 9 and 10 that the LSW had no authority to bargain except for all of the locals or all of the areas on all issues? What authority were you talking about?

A. The discussions and instruction given to Mr. Hartley at the Executive Board meeting on May 8, 1963.

Q. And when were those instruction revoked?

A. They never were.

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[Tr. 1930] Q. (By Mr. Prael) I understand that your testimony was that the original instructions regarding negotiating for a master contract arose in the January meeting of the executive board, is that right?

A. No.

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Q. (By Mr. Prael) Your testimony is now as I understand, [Tr. 1931] that no instructions concerning the negotiations of a master contract were given in the January 1963 meeting of the executive board, is that right?

A. My testimony is now and was before there was no—there were no instructions given in the January meeting on that point. The subject matter was discussed as I mentioned. There were no instructions given to Mr. Hartley on that point in the January meeting.

Q. Now, between the January meeting and the May meeting of the executive board was there a convention held; officials or representatives of the locals affiliated with LSW?

A. The Western Council convention was held in Portland on March 5 to 7, 1963.

Q. Was the problem of negotiating with any of the respondents brought up at this convention?

A. Not as such. Not as respondents and not as individual companies.

Q. Was a program—bargain program of the LSW for 1963 discussed at that convention?

A. Yes.

Q. That was held in Portland, did you say on March 5?

A. Yes.

Q. Are there printed proceedings of that convention?

A. I think that there are printed minutes of that convention. I don't think that there is a printed transcript of the conven- [Tr. 1932] tion.

Q. Printed minutes?

A. Yes.

Q. Do you have those?

A. In Los Angeles. I don't have them here.

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Q. (By Mr. Prael) Does the LSW Council get its authority to bargain from the locals in writing?

A. Not necessarily.

[Tr. 1933] Q. On some occasions?

A. On some occasions they will get the authority in writing and some occasions it has a continuing written authority and on other occasions they will get authority at the convention.

Q. At the convention?

A. Yes.

Q. Did some of the locals give the Western Council authority at this convention in March of 1963?

A. As I recall boys, the actions of the convention was to give the Western Council negotiating committee full authority to do whatever it thought necessary to carry out the program as outlined to the convention delegates.

Q. Coming back to the matter of union security, did LSW like IWA have any arrangement with Weyerhaeuser regarding agency shop at the time of these negotiations?

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A. Yes, with the one possible variation from Mr. Wyatt's testimony on that. As I mentioned awhile ago, I do not think that Arcata local had a signed agreement on union security. I think they were operating without a signed agreement at that time.

Q. But the other locals had a signed agreement arranging [Tr. 1934] for agency shop?

A. Yes.

Q. On certain contingencies?

A. Yes.

Q. In proposing a master contract including a uniform union security provision, did you advise the Association what the form of the union security provision would be?

A. We never got to that point.

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Q. (By Mr. Prael) As a matter of fact, you couldn't change the agreement already made with Weyerhaeuser on agency shop without getting the company to abandon the agreement it already had, isn't that right?

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A. We obviously could not get Weyerhaeuser to agree to anything other than what Weyerhaeuser would voluntarily agree to. But, here we were discussing something that was, we thought and [Tr. 1945] Mr. Wyatt agreed, pretty big and pretty important and pretty good for the lumber industry in terms of giving stability to the industry, having more uniformity of contract provisions, having people responsible for the various contract provisions and having various committees. Our differences were on timing. We wanted to do it during this contract. Mr. Wyatt wanted to put it off to some future discussion. Now, a program is worthwhile, many times union and companies will mutually agree to revise certain individual contract provisions in order to accomplish an objective of an overall program. That is what we were discussing.

Q. But it is true that in talking of a master agreement one of the features necessary of that master contract in your mind and your presentation to the Association was a uniform union security provision.

A. No, I testified just the opposite, Mr. Prael. It was one of the desirable features—one of the things we wanted, yes, but it was not necessary from our point of view for Weyerhaeuser to voluntarily agree to open union security in order to accomplish our objective on a master agreement and attaching Weyerhaeuser union security provision to their "Exhibit A" and discuss it again in future years.

Q. I misunderstood your testimony. In presenting to the Association a wish for a master contract, you included as an item, a union security provision which would make

allowances [Tr. 1936] for the difference in union security provisions which already existed, is that right, as far as Weyerhaeuser?

A. Again don't confuse yourself. What we outlined as being desirable was first.

Q. Yes.

A. Then, as I testified yesterday, we were flexible on what could be done.

Q. Yes.

A. Just so that we included enough contract provisions, that would give us a unit status and that would allow for what you have just stated, yes.

Trial Examiner: When you say enough provisions, are you limiting that to union security or other types of provisions also? Such as for a full common grievance procedure.

Q. (By Mr. Prael) Were the Weyerhaeuser union security provisions open for bargain at this time?

Mr. Byrholdt: Objection. It is repetitions.

Trial Examiner: Sustained. I think he testified it was not. He testified it was not open.

Mr. Byrholdt: With the exception of one plant.

Mr. Toulouse: A California plant.

[Tr. 1937] The Witness: May I; I don't want you to misunderstand. I said I didn't think there was a signed agreement in effect on union security in the California Arcata plant. I think there was a general understanding that the Arcata plant would receive the same treatment as the other plants but I don't think it was signed.

Q. (By Mr. Prael) That is what I understood but had anyone opened on the union security problem with Weyerhaeuser, or anything else at this time?

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Q. (By Mr. Prael) Now, St. Regis was the other one you mentioned. They opened on everything, is that right?

A. That is my understanding.

Q. Was that opening later changed or explained in any way?

Mr. Byrholdt: If you know.

A. Not to me.

Q. (By Mr. Prael) Not to you.

Was it your proposal to change in any respect the union security provision you had with St. Regis?

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[Tr. 1938] A. I previously testified that the other companies contracts with the various local unions had a union shop provision. To answer your question specifically, I don't know whether, in addition to the general union shop language of contracts, there could have been some additional union security language in one or more St. Regis contracts which would be nullified if a standard union shop agreement went into a master contract. This I don't know and we didn't discuss it.

[Tr. 1939] Q. This is the point, Mr. Johnston. As I understood your testimony, and maybe I am wrong, I understood your testimony your proposed to Mr. Wyatt and the committee representing the Association with whom you were dealing, that a master plan or master agreement, as you defined it, should be entered into between the Association and LSW and one of the features of that agreement should be a provision on union security. Now, it need not be uniform but it should provide for union security as the situation then was, with an exception for Weyerhaeuser. Was that what your proposal was, or was there a proposal to change certain union security features?

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A. The former, not the latter.

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[Tr. 1940] Q. (By Mr. Prael) Mr. Johnston, was a part of your proposal to enter into a master contract? Did you propose to the representatives of the Association that a union security clause be included, isn't that right?

A. I don't know that we made such a proposal to the representatives of the Association.

Q. Excuse me?

A. I don't know that we made such a proposal to the representatives of the Association. We made such a proposal in order to form and recognize an association.

Q. I see.

Now, in your view all the meetings from May 9 until when were exploratory meetings to find out whether you negotiated with the Association? Is that what your testimony is? Until when?

A. Insofar as those issues are concerned, which by multiple agreement, everybody, employers and union, agreed on May 9 that they understood each others position and that they would go ahead and bargain on those items they talked about and would continue to discuss these other items that were either excluded or included by either party. Yes, the meetings from that time on were exploratory in the terms of those issues that were clearly understood on May 9 up until after the lockout started.

Q. Until after the lockout started. Now, what I am getting [Tr. 1941] at was pensions or union security one of those issues, or wasn't it?

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A. Which is it, pension or union security?

Q. (By Mr. Prael) Union security?

A. Union security was an issue to the extent that the employers refused to consider any form of unit master contract including any form of union security.

Q. Well, now, Mr. Johnston, the representative of the employers did consider the question of master contract over and over again during these negotiations, didn't he?

A. I cannot answer that, I have an opinion.

Q. They did discuss it with you repeatedly?

A. They discussed it.

Q. And they discussed it various times, isn't that right?

A. Yes, we explored and discussed all kinds of forms and possibilities and methods of doing it.

Q. And counter-proposals, isn't that right, on master contracts or uniform contracts and association contracts, and association agreements, the question of what kind of contract and negotiation was ended up with was discussed and not only discussed it was, both were made back and

forth and different positions taken throughout the period of negotiations, isn't that right, sir?

[Tr. 1942] A. Up until after the lockout started.

Q. Yes.

Now, except as a union security provision might enter into such a master contract, was it an issue between the parties?

A. No.

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[Tr. 1958] Q. (By Mr. Prael) Mr. Johnston, certain of the operations of the members of the Association in 1963 were covered so [Tr. 1959] far as health and welfare is concerned by, I believe, you said the Hazard Trust.

A. Yes.

Q. That is the LSW trust which covers a wide area generally in north eastern California, is that not true?

A. North eastern and central California.

Q. As I understood your testimony, there was no issue in May of 1963 regarding those health and welfare provisions. That had been worked out with the Hazard Trust, is that right?

A. That's right.

Q. Those operations were principally or entirely for U. S. Plywood or were there some of the other companies operations under the Hazard Trust?

A. U. S. Plywood and International Paper.

Q. So there was no issue between the members of the Association and LSW in May of 1963 regarding health and welfare for those operations in California?

A. That's right. That is, in California, those companies that are participating in the Hazard Trust.

Q. Yes, that is all I am concerned with. Now, yesterday I suggested to you that it was a fact that health and welfare provisions of the contracts between the members of the Big Six and the LSW had not been opened for general bargaining in 1963. Do you recall me asking a question like that?

A. No.

[Tr. 1960] Q. Well—

A. (Interrupting): I don't know what you mean now by general bargaining and I don't recall your saying that yesterday.

Q. All right. That may confuse the point.

Were the contracts between LSW locals and the members of the Big Six Association open for bargaining on health and welfare during 1963?

A. As I testified yesterday, it was my understanding that some were open. I could not testify as to whether all were opened and I did not recall any position by TOC in the negotiations that all health and welfare contracts were closed and therefore dropped the issue.

Q. You don't recall that?

A. I do not, I did not yesterday and I do not today.

Q. Well, we have here a set of the contracts between LSW locals and the various members of the Big Six which were in effect in the early part of 1963 together with the opening letters. This was assembled by your counsel, Mr. Toulouse. Now, I would like to ask you to inspect those files and tell us whether or not any of the contracts, and if so which, were open for bargaining on health and welfare. To assist you in your search, I will point out that there is only one such contract opening except for U. S. Plywood contracts which are subject to the Hazard Trust in these files and I will be glad to point it out to you.

A. Fine. As I mentioned yesterday, I have never looked at [Tr. 1961] them. You tell me.

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[Tr. 1962] Q. (By Mr. Prael) I show you a document which I am informed was marked for identification as 17-8. This appears to be a letter on the letterhead of local union 3091 United Brotherhood of Carpenters and Joiners of America, dated April 25, 1963 addressed to the International Paper Company. You will notice it says, "This is to give notice that Local 3091 Lumber and Sawmill Workers, as a counter proposal to the opening of the contracts wish to negotiate a change in the health and welfare clauses of our contracts, on a local level.

Now, in reliance on such openings or that opening, did you ask the Association to bargain on health and welfare at the meeting of May 9 and May 10?

[Tr. 1963] A. No, sir, I never saw this before. I had no reliance on it. I never knew it existed until you pointed it out to me now * * *.

[Tr. 1964] Q. (By Mr. Prael) Mr. Johnston, you did not ask the Association on May 9 or 10 to bargain on health and welfare openings by either the company or the union of the contracts between LSW and Association members, did you?

A. No.

Q. (By Mr. Prael) What is the answer?

A. I said no.

Mr. Prael: Would you read the question.

(The previous question was read by the reporter.)

Q. (By Mr. Prael) By no, you mean you did not?

[Tr. 1965] A. The answer is no, we are not making a proposal based on any particular contract opening on either health and welfare or automation committee or classification committee or prorated vacations or retired people. They were proposals made by the Western Council to the employers they were meeting with.

Q. (By Mr. Prael) Did you ask the Association representatives to bargain on health and welfare at all on May 9 or 10?

A. Mr. Prael, as far as I can recall, Mr. Wyatt was the only person who stated that he was representing the Association so when you asked the question did we make proposals to the Association representatives, I can't answer you.

Q. Did you make a proposal—a request to Mr. Wyatt who represented himself as spokesman for the Association to bargain on health and welfare on May 9 or 10?

A. I think I explained that yesterday that we never got to that point. Their company letters of April 17 to 19 excluded health and welfare. We discussed it from the points of view of their exclusions and went on with the rest of the testimony I gave yesterday on the problem that was created for us.

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[Tr. 1967] Q. (By Mr. Prael) In discussing with Mr. Wyatt health and welfare as an excluded matter on May 9, did you tell Mr. Wyatt or any representative of the Association that LSW had proposals to make to the Association regard health and welfare?

A. Not in those words, no.

Q. Did you tell Mr. Wyatt or any representative of the Association on May 9, or any other date, that LSW had proposals to make to change the health and welfare provisions of the contracts between the Association members and LSW relating to health and welfare?

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A. And the answer to the question is yes. I explained that yesterday.

Q. (By Mr. Prael) Now, I asked you this question yesterday and as I understood your testimony yesterday you stated that you wished members of the Association to influence the T.O.C. in its bargaining with LSW, isn't that what you told me yesterday?

A. No, it is not.

Q. Not in those words, is that right.

A. I never asked the Association to influence T.O.C. on anything and I never testified that I did.

[Tr. 1968] Q. Now, what was your proposal then, that you explained to Mr. Wyatt on May 9?

A. Their exclusion, in our mind, created a serious prob-

lem of compelling us to bargain on health and welfare with T.O.C., the Association members refusing to bargain with us on that level, four of the Association members being a party to the T.O.C. health and welfare, three of the Big Six being on their board of directors, and we said to Mr. Wyatt, "They will go to and instruct T.O.C. to say no."

Q. Did you tell Mr. Wyatt that you, that LSW didn't wish to bargain with T.O.C. regarding the application of the T.O.C.-LSW Trust to the members of the Association?

A. No, I did not.

Q. You told us yesterday you didn't recall the fact that the negotiations which I think you testified you had already begun before May 9 with the T.O.C. and in those negotiations T.O.C. had told you that health and welfare provisions were not opened so there would be no bargaining on that. You testified yesterday you didn't recall that?

A. That's correct.

Q. Is your recollection the same today?

A. My recollection is the same as I testified to yesterday, which was a little more than what you have outlined at the moment.

Q. Yes.

[Tr. 1969] A. In other words, T.O.C. could have taken that position on health and welfare, but I do not recall that we then dropped the subject based on that statement of T.O.C. In fact, I do not believe that happened as you asked yesterday.

Q. Mr. Johnston, in negotiating with the Association, or meeting with the Association, didn't you, before presenting demands on the Association, investigate what subjects had been opened for bargaining between the locals and the companies of these various contracts.

A. No, Mr. Prael. It doesn't work that way. First, it is not my job to check local union openings, secondly, it is not my job to check delegation of a broad and general authority, either to the executive committee of the Western Council, or to Mr. Hartley as the executive head of the Western Council. My directions and assignments come from Mr. Hartley as the executive head of the Western Council. It is my understanding that in meetings I have

participated in over the period of time that the Western Council itself formulates proposals that it believes to be essential to the needs of the members and makes such proposals.

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[Tr. 1970] Now, Mr. Johnston, at the May 9 meeting, that was the first meeting, you stated that you had some questions to ask regarding the Association when you first met with the Association representatives, is that right?

A. That is part of our opening statement.

Q. Yes; the other statement was that you were not going to recognize the Association until you had answers to those questions.

A. Satisfactory answers, yes.

Q. Now, you then asked the questions and after that, as I understood, sometime during the May 9 meeting, you made a statement or somebody made a statement setting some issues aside and proceeding to bargain, is that your testimony?

A. No, I don't think either of those terms, setting aside or proceeding to bargain, were used. I don't think I testified to those words.

Q. In that meeting there was argument between you and the representatives of the Association as to whether the plants east of the Cascades should or should not be included in the multi-employer group, you have testified regarding that?

[Tr. 1971] A. Yes.

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Q. (By Mr. Prael) Let's have your testimony, please. Quite frankly, I don't know what it was, I couldn't understand it after reading it. Tell us what happened after you had asked these questions, discussed the limitations on the geographical limitations on the area on which the Association was willing to bargain and also, I believe, discussing the excluded matters, that is, pension, health and welfare, union security, local issues—

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A. Would you repeat—well, without going into all of the details of what happened on May 9, we opened the meeting deliberately to avoid getting into a bargaining position prior to getting answers to some very important questions to us, without relisting all of those question, we made our position clear [Tr. 1972] that—

Q. (By Mr. Prael—interrupting) Can you tell us the questions?

A. You want me to repeat all my testimony of yesterday?

Q. Well, go step by step, just the beginning. As I understood your testimony, you did not want to get in a bargaining position with the Association until you had some questions asked. Now, what were the questions?

Trial Examiner: Were those the eight or nine you listed yesterday, or something else?

The Witness: Those were most of them. There were others that I thought we overlooked yesterday in my testimony. Those were the—

Q. (By Mr. Prael—interrupting) The bulk of the questions?

A. Yes.

Q. That had to be answered?

A. Ones I testified to yesterday.

Q. The eight or nine?

A. I didn't count them?

Q. Well, I counted them and I told you I counted them. One was automation, classification, wage increase, three-year contract—

A. No, Mr. Prael, you are now talking about the session on May 9, after about two or three in the afternoon, after these other points had been discussed for several hours.

[Tr. 1973] Q. I think the Trial Examiner was referring to those eight; health and welfare was the ninth.

Trial Examiner: Confusion can arise, so will you specify the questions you were referring to?

A. When we opened the meeting and Mr. Hartley opened the meeting and said we had some questions to ask and asked me to make the statement, I stated that we had looked over the companies' opening letters and we are not

prepared to recognize the Association until we have answers to several questions. I then asked what the structure of the Association was.

Mr. Wyatt responded that the six companies had banded together for purposes of collective bargaining through an Association. I asked if he had written authority and he said yes. I asked if they had notified the local unions of that and he said not as such. I inquired what the name of the Association was.

Mr. Wyatt responded that rather than a formal association with a capital "A", and for want of a better term, he was designating it just association, small "a". Mr. Hartley stated we have given it a name also, we call it the Big Six. I inquired of Mr. Wyatt if they had an agreement between themselves or an association agreement, and he said that they did.

I asked if we could have a copy of it and he did not respond in words, he sort of laughed as though it was a ridiculous question and I commented "I suppose that if something happens so we get in a hearing over it, we will get a copy." Mr. Wyatt commented that that is one way of getting it.

One thing I did not testify to yesterday which I did ask, was the method by which employers could either come or go out of the Association. I asked if companies could join or leave at will. His answer was to the effect companies could only join or leave the Association with the approval of the Association and not at the will of any one company.

I asked if the companies had an agreement among themselves that a strike against one would be considered as a strike against all. Mr. Wyatt responded yes, we think we have the legal authority but we are not prepared at this time to state whether or not we will use it.

I inquired of Mr. Wyatt what form of an agreement they contemplated. He stated that they contemplated a settlement agreement. We discussed that term to the understanding that he meant a settlement agreement with the five companies with which the Lumber and Sawmill Workers had contracts by which each company would agree to amend its own individual contract.

We discussed the fact Mr. Wyatt made it clear he was not talking about an Association contract but rather a settlement agreement. He stated that the companies would be bound by any action of the members of the Association. He explained a 75 per cent approach when he stated to us that that meant that [Tr. 1975] any one company that we have a contract can veto any action of the Association because Rayonier Company, one of the Big Six, did not have contracts with the Lumber and Sawmill Workers, so any one of the companies plus Rayoneir Company could stop any action.

After that discussion on the form of settlement, I asked Mr. Wyatt who would sign such a settlement agreement. He answered that each company would be obligated to incorporate the settlement in its contracts and to get back to the question I had asked, would the Association sign a settlement agreement, Mr. Wyatt said that they had not reached that point in their discussions or considerations yet, but the Association had been rather hurriedly put together, but that it would be his off-hand personal opinion that the Association would sign such a settlement agreement along with each of the member companies.

We objected to the exclusions in the companies' letters of April 17 to 19, and had considerable discussion on that.

Q. (By Mr. Prael) Those exclusions, what are you talking about?

A. We pointed out——

Q. (Interrupting) Just a moment.

A. I am answering it.

Q. All right.

A. (Continuing) We pointed out that we had no authority to [Tr. 1976] bargain for some of the local unions and not all, and that the exclusions of the plants of St. Regis and U. S. Plywood east of the Cascades was something we could not agree to nor could we agree to bargain with the Association as such as long as that exclusion lasted.

We talked about the other exclusions. Mr. Wyatt stated that they meant the Big Six companies could not bargain on local issues such as vacations, seniority, et cetera.

Mr. Prael: May I have the last statement read, please?

(The record was read by the reporter.)

A. (Continuing) I can restate the last portion.

Q. (By Mr. Prael) I understood your statement regarding the exclusion of plants. After that you discussed some other types of exclusions, exclusions of subjects. What was your statement in that regard.

A. I just got to the point of stating Mr. Wyatt stated that they could not bargain on the subjects of vacations, seniority, et cetera, those things that they regarded to be local issues.

We discussed the exclusion of health and welfare and we had gone over that twice already. We pointed out the problem it created for us. We wanted to include dependency as part of the employer contributions to the T.O.C. Trust; that they were sending us over to T.O.C. to bargain, et cetera, as I already testified to twice. We pointed out to Mr. Wyatt and the others present that they were, by their letter and by their statements, [Tr. 1977] attempting to compel us to bargain on at least four levels and on five levels in the case of St. Regis, those levels being as follows:

Bargaining with the Big Six companies on the issues they could bargain on for the plants they could bargain for;

Bargain with St. Regis separately for the same issues for the plants east of the Cascades;

Bargain with U. S. Plywood separately for the same issues for their plants in Polson, Montana;

Bargain on health and welfare, under their approach, we would be compelled to bargain with T.O.C. for those companies that were participating in T.O.C.—

Trial Examiner (interrupting): Those of the Big Six.

The Witness: Those of the Big Six with individual companies on health and welfare where their individual company plans on pensions were separate with each company, and on each local issues separately with each company.

A. (Continuing) We pointed out this did not constitute the kind of program we wanted or envisioned and that we could not recognize the Association unless some of these serious problems could be reconciled. Mr. Wyatt made it exactly clear that those companies that had formed the

Association had no authority to designate inclusions or exclusions of either areas or issues, that this was up to the individual company, but after they were once in then they became part of the group voting.

[Tr. 1978] He stated they were banded together for that purpose and made it clear that was the basis on which they were going to negotiate if at all. We took a caucus.

In that caucus we considered the fact that they weren't going to meet with us on any other basis on the points they would discuss, but at the same time, because Mr. Wyatt had indicated that our approach on master contracts and on unit and program coincided with his thinking on a long-range basis, we thought there was sufficient room to continue meeting with them looking forward to obtaining an agreement through further discussions, but that we could not meet with them except on the basis of all issues and all areas.

We returned from that caucus and outlined our position as I have just stated, that we will be speaking for all areas and all issues. Mr. Wyatt made it clear they could only speak for the issues designated and the areas designated. Mr. Mike Roberts of St. Regis made it clear that St. Regis would only be speaking for the plants west of the Cascades.

We then agreed that we would proceed to discuss the issues we could and that we could continue discussing the disputed issues and disputed areas and Mr. Wyatt directly summed it up by stating that each, by stating that plus that, either party or both parties might change their minds through further discussion on some of these disputed points, including disputed areas.

[Tr. 1979] At that point, with that understanding, we handed Mr. Wyatt copies of the Western Council letter dated May 8.

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Q. (By Mr. Prael) What I am trying to figure out, what were the items you agreed to not discuss any further?

A. Mr. Prael, we never agreed. Each party at each meeting, except Mr. Wyatt, didn't make it clear at every meeting but he certainly—each party stated their position,

their problem. There was never a meeting of minds on either areas or issues.

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[Tr. 1980] Q. (By Mr. Prael) At that time, as I understood your testimony, after the caucus you had further discussions with Mr. Wyatt. As I understand it, certain matters in dispute were set aside. Is that what was done with them?

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A. In my mind they were not what you call set aside in the sense of being ignored. The agreement made at that point, as I understood it and as I still understand it, was that there were certain areas of discussion possible on certain issues and that they would only meet with us as an Association on those issues. There were these other disputed points.

Our desire for a master contract—

Q. (By Mr. Prael—interrupting) That is what I want to list, master contract, what are these disputed points? The other ones?

A. Master contract in the whole sense that we wanted a unit, the disputed areas.

Q. What was this?

A. The master contract included several other things, what [Tr. 1981] issues would go into it, union security, health and welfare, so we continued by agreement that we would discuss these things on a possibility that either or both parties might change their minds.

In the meantime—

Q. (Interrupting) Change their minds regarding what?

A. Regarding the position of either or both parties on excluded areas and excluded issues.

Q. Now, the excluded area problem that you said there might be a change of mind, was the exclusion of the plants east of the Cascades, is that right, was that the excluded area?

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A. By May 10 that was true, as I testified, in the session on May 10 Mr. Doherty and Hugh Allen of the Northeastern District Council and I straightened out the confusion involving excluded plants or areas with U. S. Plywood in California. So, after that, yes, the disputed areas east of the Cascades involved two companies.

Q. (By Mr. Prael) Did you then set that dispute aside for the moment?

[Tr. 1982] A. Yes.

Q. Now what other disputed matter was set aside for the moment?

A. The question of our recognizing the Association until we got a satisfactory answer as to these other problems and the whole two-way dispute that ran through the meetings.

The Association wanted recognition as a group and the union wanted recognition as a unit and both parties stated their position and there was never a meeting of the minds throughout the entire period of discussion, down to and including today.

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[Tr. 1983] Q. (By Mr. Prael) Mr. Johnston, would you refer to the transcript on page 1808. I will be glad to show you my copy.

Mr. Toulouse: Let the Examiner show him his.

Mr. Prael: I thought maybe the Examiner would like to follow it.

Trial Examiner: All right, I will show the original transcript to the witness, on page 1808—what line?

Q. (By Mr. Prael) There is a long answer beginning on line five as to what happened immediately before Mr. Hartley handed to Mr. Wyatt at the meeting of May 9, a certain letter which is in evidence as Respondents' 207. Do you have the point of the meeting in mind Mr. Johnston, did you hear the question Mr. Johnston?

A. Yes, I heard the question and I think I have the point at that meeting in mind.

Q. Would you please read that answer just to yourself please.

A. Starting on line five?

Q. Starting on line five, yes.

A. I have read it down to line 22.

Q. Now, you state there that Mr. Wyatt advised that the Association can only meet on an Association basis and cannot speak for the excluded plants or excluded issues. Do you have that in mind?

A. I have that in mind.

[Tr. 1984] Q. You thereafter stated, referring to a remark by Mr. Roberts that each party stated its position. By that do you mean that Mr. Wyatt stated his position as I have just read from the transcript and you stated your position that the LSW had no authority to, or would not bargain except for all locals on all issues, is that correct?

A. That is the general summary of my testimony.

Q. As all issues and all locals have been defined here?

A. Right.

Q. You also stated as I read this statement that perhaps you stated to Mr. Wyatt that perhaps through further discussion, positions can be modified, correct?

A. I stated exactly what is on that page in the transcript.

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[Tr. 1985] Q. (By Mr. Prael) Did Mr. Wyatt make a response to your statement that through further discussion positions can be modified?

A. Yes.

Q. Now, what was that response?

A. Mr. Wyatt summed up, I believe, correctly, the positions.

Q. What did he say? Not in exact words but as nearly as you can say.

A. I believe that he stated that our long-range goals were not adverse to each others and that through further discussions on these points either one or both parties might change their position.

Q. He said that through further discussions on these points either one or both parties might change their positions?

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[Tr. 1986] Q. (By Mr. Prael) You understood him to mean, did you not, by these points the exclusion of the plants east of the Cascades as one, is that right?

A. As one.

Q. The unwillingness of the Association in these negotiations to bargain on pensions, is that right?

A. Specifically, no. As I stated yesterday, pensions were not an issue.

Q. Well, then willingness of the Association to bargain on health and welfare?

A. I would have assumed that to be included as part of Mr. Wyatt's statement. He stated that he regreted the restrictions that the shortness of time causes and perhaps more restrictions this year, meaning '63, might develop in the future and that if we keep on discussing perhaps some of these positions would change—words to that effect.

Q. When he said in substance that by further discussion of these points someone might change their position, I am trying to get the points as you understood them. One of the points was these omissions or exclusions of plants east of the Cascades. There was no issue about pensions so we are not concerned with that. One of the issues or points was, as I understood it, the exclusion from that bargaining of health and welfare. Was that one of the points?

[Tr. 1987] A. That is one of the points that I would have had in mind. I would assume it was incorporated in Mr. Wyatt's general language, yes.

Q. What were the other points?

A. All of the issues involved in connection with our request for equal treatment in the formation of a master contract to give us the protection against raids and decertification and to form a real association contract that we would recognize and deal with that would in turn give stability to the industry and to the employers. As I previously testified to, they had a desire, in our opinion—

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Q. (By Mr. Prael) I am not going to restrict the scope of the answer. We will cover everything, but one at a time. Now, we have the exclusions of the plants east of the

Cascades, the matter of health and welfare, the master contract. Now, what other points do you understand were being referred to at that time?

A. From our point of view the question of recognizing the association.

[Tr. 1988] Q. The question of recognizing the Association?

A. Right.

Q. That was the main point, impounded all the others, or was that a separate point?

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A. The two go together, the recognizing the Association and our obtaining a master unit contract.

Q. Those are two that go together. Were there any other points that were referred to at that time by the words "these points"?

A. Not that I can recall, no.

Q. Four points then. Now, what was said after that about those four points by you or Mr. Wyatt?

A. On May 9?

Q. On May 9 after Mr. Wyatt said, as I understand your testimony, that as to these points as to which there was a discussion, an agreement, perhaps as a result of further discussions, someone would change their position.

A. On May 9 I do not recall any further comments being made on those points. It consumed most of the day and then we went into the other aspects I discussed.

Q. That was the end of the discussion regarding those points?

A. On May 9?

Q. On May 9.

[Tr. 1989] A. Right.

Q. Well, then, that subject was then dropped and you went to another subject?

A. Yes, as I testified at that point then we handed him the letter of May 8, which listed all of our areas, following which we distributed—

Q. (Interrupting) Was anything said—

Mr. Byrholdt (interrupting) Let him complete his answer.

Q. (By Mr. Prael) Was anything said by you or by Mr. Wyatt or Mr. Hartley in between the time Mr. Wyatt said, well, as to these points which we are in agreement, we have named them, perhaps with further discussion someone will modify their position. After that statement was made by Mr. Wyatt, was anything said before you handed the Association or Mr. Wyatt that letter No. R 207?

A. I don't know. You are pinning me down pretty narrow.

Q. Yes.

A. And I don't know whether somebody said something in between or not. I know some of the people in the room, they probably pipped up and said, let's talk wages.

Q. You recall nothing at the moment?

A. I don't recall anything at the moment except our statement in handing them the letter of May 8.

Q. When the letter was handed to Mr. Wyatt, what was said, if you recall?

A. I had stated with that understanding, referring to Mr. [Tr. 1990] Wyatt's assumption of the respective positions—pardon me—I did not. Mr. Hartley stated that with that understanding we have a letter for you and Mr. Hartley handed them the letter dated May 8.

Q. Mr. Hartley said what, with that understanding?

A. Words to this effect.

Q. Do you know what Mr. Hartley was referring to when he said, "with that understanding"? What was the understanding?

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Q. (By Mr. Prael) When Mr. Hartley said, "with that understanding", what did you understand Mr. Hartley to be referring to when he said "with that understanding"?

A. Exactly what took place in our union caucus a half hour before when we came back and made our position clear that we could only proceed if we were talking for all areas and all issues. Mr. Wyatt and Mr. Roberts from St. Regis made their position clear that Mr. Wyatt could only talk for the Association and Mr. Roberts could only talk for plants west of the Cascades but that through fur-

ther discussion of these issues somebody might change their mind. I assume that Mr. Hartley in saying, "with that understanding "we have a letter for you," he was referring to all of that discussion.

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[Tr. 1991] Q. (By Mr. Prael) Then, after the letter was handed to the company, what was said and what was done at the meeting and by whom?

A. For the third time, Mr. Prael, we then distributed copies of the union's letter dated April 11 which had generally been distributed throughout the industry and the employers took time to look at it, if not read it in full.

Q. That was two letters that were delivered about the same time, is that right?

A. Well, yes.

[Tr. 1992] Q. (By Mr. Prael) I will show you R 207, which is a letter dated May 8, 1963.

A. Yes.

Q. Which is the letter, first letter, delivered at that meeting, is that correct?

A. It is the letter Mr. Hartley handed to Mr. Wyatt.

Q. And then immediately after that he handed a copy of R 200 to Mr. Wyatt, is that right?

A. No, that is not.

Q. Tell us what happened.

A. As I testified, I distributed copies of a letter of April 11.

Q. R 200?

A. Which is marked R 200.

Q. Then, tell us what happened.

A. Well, after looking at it briefly, there was some, I suppose, general discussion about it. We then outlined to the companies the eight proposals which I enumerated here yesterday.

Q. Did Mr. Hartley say anything before starting the discussion of the eight proposals? He said, as I recall it, that now we have got rid of the technicalities.

A. Words to that effect.

Q. Words to that effect? He was referring, I take it, to the so-called understanding that was preceded the handing of R 207 to Mr. Wyatt, is that right?

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[Tr. 1993] The Witness: Yes, I understood Mr. Hartley's comment to mean now that we have spent all this time on technicalities, we can start talking about economic issues.

Q. Economic and contractual issues, is that right?

A. I said what I understood.

Q. The eight points you listed yesterday?

A. That's correct.

Q. One of those was a master contract issue, isn't that right?

A. That's right.

Q. Now, who—as I understand it, after the two letters were delivered to Mr. Wyatt, you or Mr. Hartley presented the eight points, is that correct?

A. Yes.

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[Tr. 1994] Q. You presented the eight?

A. I outlined them.

Q. Did you do more than outline them?

A. As testified to yesterday I explained them and particularly on the master contract we had long discussions. The employers asked questions about how it worked and what we had in mind and how we could form and were we trying to reopen all contracts on all matters. We had quite a discussion as I testified to yesterday.

Q. You also had discussions on matter of automation?

A. Yes, as I have already testified to.

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[Tr. 1995] Q. (By Mr. Prael) Did you make a proposal on May 9 to Mr. Wyatt on classification committees?

A. Yes.

Q. What was the proposal?

A. As I testified yesterday—

[Tr. 1996] Q. (Interrupting) Regardless of whether you did or not.

A. The proposal was to formulate a classification committee that could standardize and make uniform the changes on job basis that they placed in the lumber industry. For example, a new forklift truck is employed in a job by a company and that displaced a man. Perhaps another man should have a wage adjustment. We wanted an overall classification committee so we would not be in the position, as I outlined yesterday, whereby in arbitrations in Arcata the company maintained that the local union at Weyerhaeuser's plant in Arcata, did not raise an issue over the same subject. We wanted a committee that could form some stability. Our proposal was not that that committee could order any one company to establish such a classification or such a wage rate but that this committee could study the overall problems throughout the industry as it occurred from plant to plant and make recommendation back to that one company or that one plant.

Q. This was different than your proposal regarding automation?

A. Two different subjects.

Q. Now, without elaborating on it, you also discussed, as we have been over some of this part, the various forms a contract with the association might take. Your proposal might be what you termed and defined as a master contract, is that right?

A. Yes.

[Tr. 1997] Q. I don't want to block your testimony if anyone wants to hear about that discussion again.

What other items did you discuss in the way of proposals to the association on May 9 other than the one we have mentioned?

A. All eight.

Q. You mentioned three now.

A. Automation.

Q. Classification committee, master contract.

A. Additional bracket adjustments for skilled and maintenance employees, pro rated vacations for retired employees, a sub-contracting clause so we wouldn't lose our jurisdiction during the life of a contract—I lost count.

Q. Wages.

A. Did I get that far? And the 60 cent wage proposal, yes. A three-year contract.

Q. And you argued the merits of all these proposals to Mr. Wyatt?

A. We presented the merits.

Q. After you had presented those proposals, did anybody on behalf of the association make a response?

A. I believe that the response that day from Mr. Wyatt was that we have your proposals, we will give them consideration, and we will meet again tomorrow morning. I don't think there was any substantial discussion back and forth on any point that particular day.

[Tr. 1998] Q. What was done next at the meeting?

A. The meeting of May 9?

Q. Yes.

A. I thought they adjourned.

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Q. (By Mr. Prael) Did Mr. Wyatt make some proposals to the Western Council LSW, at the meeting of May 9 after you had presented the letter of May 8 and after you had made the proposals you have just described, numbering eight in number?

A. Actually, I think he did, yes.

Q. Now, what proposals were these and what did Mr. Wyatt say regarding them as nearly as you can recollect?

A. I think this was May 9. Mr. Wyatt stated the problem that he thought the companies had on this plywood and some other operations was on a seven-day work week. He gave some reasons for that proposal. He explained the reasons for their proposals and amending the grievance procedure.

Q. What was the reasons given by him?

A. Well, the contracts in the main at that time currently provided that if a dispute arises on the job—

[Tr. 1999] Q. (Interrupting) You say the contract. Are you talking generally about the contracts in effect?

A. Yes.

Q. Between the various locals of LSW and members of the association?

A. Yes.

Q. Typical contracts, I take it?

A. Generally provided that when a dispute arises a status quo, existing prior to the time of dispute arose, shall be maintained until the dispute is settled under the collective bargaining contract provisions. Mr. Wyatt's proposal was to change that so that the status quo to be maintained pending settlement would be the status quo after the company made the change in the job condition.

Q. Now, what other proposals did Mr. Wyatt make?

A. I think he outlined the problem he thought they had on concerted refusal to work overtime which was discussed back and forth. Mr. Wyatt's point being he did not want employees to engage in a concerted refusal to work overtime as an economic harassment when wages were being negotiated on other matters and Mr. Hartley explained the union's position that we didn't want the companies to put on a lot of overtime and a lot of extra employees on over time to get the inventory down anticipating the labor dispute.

Q. Did Mr. Wyatt make any other proposals?

[Tr. 2000] A. I think there was one other I can't recall what it was.

Q. On behalf of whom did Mr. Wyatt say he was making the proposals, if he did?

A. Mr. Wyatt said every time, as far as I can recall, every time that he made any proposal, that he was making a proposal on behalf of the association or words to that effect.

Q. Now, after these proposals on behalf of the association were described by Mr. Wyatt, was there any further discussion at the meeting that you recall?

A. No, I have run out of memory on May 9.

Q. Do you recall Mr. Hartley making or proposing a wage offer?

A. He may have. That would certainly be typical.

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[Tr. 2001] Q. (By Mr. Prael) Mr. Johnston, who is Mr. Ted Prusia?

A. Mr. Ted Prusia is secretary of the Willamette Valley District Council of Lumber and Sawmill Workers. He is a member of the Western Council's Executive Commit-

tee, he is a member of the Western Council's Wage Committee, and at Mr. Hartley's request he acted as secretary for the Wage Committee during the meeting with all associations and companies during 1963.

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[Tr. 2005] Q. (By Mr. Prael) Mr. Johnston, after the meeting of May 9, 1963, regarding which you were testifying before the noon recess, a further meeting was had between the bargaining committee for the Western Council, LSW, and the committee representing [Tr. 2006] the Association, is that right, on the next day?

A. There was a meeting held the next day.

Q. Yes.

A. Whether the committee was there or the employer people were representing the Association, I don't know.

Q. Well, regardless of all the people representing the Association, there was a committee there representing the Association?

A. As I said before, Mr. Wyatt was the only individual who stated he was speaking for the Association.

Q. I see. That meeting began when, was it on the morning of the 10th or the afternoon of the 10th?

A. I think this was a morning meeting.

Q. Would you tell us how that meeting opened?

A. As I testified yesterday, Mr. Wyatt opened that meeting and gave a response to the various proposals that we had submitted, indicating that on a long-range basis, philosophically, that he was not opposed to some of our proposals but on the specific basis for items to be included in a contract with each company, he said no, except as I pointed out, he indicated that the companies were not opposed to our proposal for pro-rated vacation for retired employees in part, but not in full, on our proposal.

He indicated that our proposal on classification committee was worth some consideration and he made a wage proposal which [Tr. 2007] as I stated yesterday, was less than U. S. Plywood had already given their non-union plants and we told him so.

Q. Now, in addition to those items you have mentioned—one was pro-rated vacation, the second was a classifica-

tion committee—these were union proposals given the Association the day before, isn't that right?

A. They were union proposals submitted the day before, yes.

Q. Yes. And he also made a wage proposal, you say. What other matters did he, what other proposal to the union did he comment on in opening the meeting.

A. He commented on all of the proposals.

Q. All eight?

A. Yes.

Q. Commented on all eight. What did he say about the three-year contract?

A. That there was no opposition to that proposal as such, in other words, it was not in the agreement that there would be a three-year contract but at that stage he saw no opposition to the proposal.

Q. I see. What did he say about your proposal on bracket adjustments?

A. I think I stated yesterday—

Q. (Interrupting) Well, regardless of what you stated yesterday, what is your present recollection?

A. It would be one and the same, Mr. Prael.

[Tr. 2008] Q. Well, that is fine.

A. The idea of bracket adjustments for skilled and maintenance people was in order but the amount was not.

Q. And you proposed an amount the day before?

A. No.

Q. Then I take it he said that the amount would have to be settled but the idea was all right, is that what you are saying now?

A. Well, he ended up making a proposal of wages, including an amount on bracket adjustments.

Q. What did he propose on bracket adjustments?

A. I think it was a pooling of 1 cent per hour.

Q. What was your statement?

A. A pooling.

Q. Pooling of 1 cent per hour, can you tell us what that meant?

A. It meant that you would take 1 cent an hour for example for 100 employees you would have a dollar. Then you would distribute that dollar to five employees in

skilled and maintenance and you would have 20 cents apiece.

Q. One cent per hour was for the purpose of computing a total sum to be used for bracketed adjustments of particular jobs, is that right?

A. Yes, that is correct.

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[Tr. 2009] Q. (By Mr. Prael) Was there any explanation of how that pooled amount was to be computed?

A. Not at that meeting.

Q. Not at that meeting?

A. There was at subsequent meetings.

Q. Were any questions asked as to how the 1 cent was to be computed on a pool basis at this meeting?

A. There was some discussion about the distribution to skilled and maintenance employees and Mr. Hartley stated we wanted [Tr. 2010] to get the amount of money settled and said, "You," referring to the companies, "make up the list of where you want it distributed."

Q. I see.

A. Or how you want it distributed.

Q. But at this point the discussion was a method of arriving at a figure to be distributed?

A. That is correct.

Q. And was anything said regarding the subcontracting proposal that you had made on the day before?

A. Yes.

Q. If so, what and by whom?

A. Mr. Wyatt responded to each of the proposals, including that one. He stated that he thought they could get into some legal problems by attempting to strip subcontracting during the life of a contract and I said that the companies had enough attorneys to work out the proper language that they wanted and that the union wanted the protection of the work covered by the contract for the duration of the contract and not lose our jurisdiction by subcontracting to gypoos, as they are called in the lumber industry, or by any other means.

Q. Did he have some comment on the automation committee proposal?

A. Yes.

Q. What was that?

[Tr. 2011] A. In his opinion the employment had increased to the companies involved and there wasn't any need for an automation committee. I pointed out, as I testified yesterday, that the increased employment was due to the companies buying out more plants rather than increased production per unit or per man-hour in that sense, the unit, I should say.

This answer was no to our proposal on the automation committee.

Q. You said that he made a wage proposal. Up to that time had the union made a wage proposal or wage demand? Usually they would. When a union makes a proposal it is a demand, but when the company makes it it is a proposal. Had the union made a demand or proposal before this?

A. As I testified twice, Mr. Prael, the union had proposed 60 cents an hour over a three-year contract among the other proposals made on May 9, and we had considerable comments and discussion about the proposal.

Q. Yes. Now, what was the proposal of Mr. Wyatt on behalf of the Association on May 10, the wage proposal?

A. Two and one half per cent in 1963, one per cent in 1964, and one half per cent in 1965, which, as I have stated, was less in our opinion than U. S. Plywood had already given the non-union plants, and besides, it was on a percentage basis, which we objected to. We wanted the wages on a cents-per-hour [Tr. 2012] plus, as Mr. Hartley pointed out, we wanted a lot more than we proposed.

Q. After that proposal was made by Mr. Wyatt, including wage offer, as I recall the testimony, the union took a caucus?

A. Yes.

Q. They came back and then did you state the union's position on each of these proposals or counter-proposals on behalf of the Association?

A. No. I did not state all of the answer.

Q. I see. Well, did you state some?

A. Yes.

Q. On which items did you state the union's position, if you recall?

A. Well, I can answer it correctly, I think, this way. Mr. Hartley took over on the answer and arguments involving the money. I responded and argued on the matters such as master contract and automation, the pro-rated vacation for retired employees, et cetera.

Q. Who spoke first, Mr. Hartley on the money items—I suppose that included not only wages but bracketed adjustments, et cetera, did he speak first or did you?

A. I don't recall.

Q. You don't recall but you both did.

Do you recall stating to —I withdraw that.
[Tr. 2013] Did the union express agreement with Mr. Wyatt's proposal, any of Mr. Wyatt's proposals on behalf of the Association? Was the agreement tentative or no opposition to the three-year contract?

A. We did not disagree with his indication that a three-year agreement with each company would be in order if we ever got to that point.

Q. I take it you did not disagree with his indication that some bracketed adjustment was proper but you didn't agree with the amount, is that about it, on the bracketed adjustments?

A. Well, yes, that would be correct.

Q. Would you state any of the other proposals made by Mr. Wyatt to which the union indicated it did not have or was not in disagreement with?

A. Well, I think we indicated or stated that we were in disagreement with everything else but you got two parts to your question.

Q. Yes.

A. For example, Mr. Wyatt said the idea of a classification committee is worth while studying. He did not agree to have one and subsequently said no, but we did not disagree with his response that it was worth while taking a look at.

Q. I see. Was there a discussion of the master contract proposals?

A. Yes.

[Tr. 2014] Q. What was this discussion at this point?

A. Well, Mr. Wyatt rejected the idea and postponed it for the long-range future in some time later, after the three years, and we did not agree. We tried to pin him

down to a date that he agreed to form a master contract at least on some items within the first year of a three-year contract.

His continuous answer was that we don't disagree with the idea but we don't agree to do it. He did not use those words; he got the idea across with a longer sentence and fancier words, but he made his position clear on that point.

Q. I see. At this meeting, then, was there any discussion of the certain proposals made by the company regarding hours of labor, change in the grievance procedure?

A. Yes.

Q. Where did that come in?

A. Well, it came in on part of Mr. Hartley's discussion. I think a flat rejection of their proposal on the variable work week.

Q. Who commented on the companies' proposal to change the provision regarding overtime?

Mr. Byrholdt: If there was any such comment.

Mr. Prael: I understood his testimony to be that there was.

Q. (By Mr. Prael) Was there?

A. There was some comments.

[Tr. 2015] Q. What was that?

A. I think that more than one person discussed that particular point.

Q. Overtime proposals on behalf of the Association, is that right?

A. As I recall, several of the union people on the committee spoke up on that particular point.

Q. Yes. I am not asking you for all the argument, but was the comments of the union representatives toward the proposal by the Association representatives favorable or unfavorable?

A. Very unfavorable.

Q. Now, what, if anything, was said regarding the proposal on behalf of the Association that some change be made in the grievance procedure or the matter of performing work pending grievances?

A. Well, I explained why it should not be done. Mr. Hartley stated it would not be done, or words to that effect.

Q. I see. Mr. Hartley stated the union position firmly and you state the "why"?

A. That is correct.

Q. Can you tell me now, anything further that took place in the bargaining session of May 10 between the Association and the LSW?

A. Yes. Mr. Hartley explained that we had been in bargaining with other employers, with the T.O.C.—

[Tr. 2016] Q. (Interrupting) May I interrupt, did this occur at the beginning, end, or middle of the bargaining session, do you recall?

Mr. Toulouse: You didn't ask him that.

A. I think it was somewhere near the end of the—

Q. (By Mr. Prael—interrupting) Go ahead. I am sorry I interrupted you.

A. Mr. Hartley explained we had been in bargaining with the other employers and with the T.O.C. and with Simpson and Georgia-Pacific, and that he had had a report from the IWA on their several sessions with the Big Six and that if they didn't have a lot better offer than that, to quote Earl, "We will cool your smoke stack."

Q. By they, who do you mean?

A. The companies.

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Q. (By Mr. Prael) I understood you to say that Mr. Hartley at one point said they would have to do better or the smoke stack would be cooled. Now, who was referred to by they?

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[Tr. 2017] A. The five companies.

Q. (By Mr. Prael) The five companies who were members of the Association at that time, is that right?

A. The five companies that were a part of the Big Six.

Q. All right. Now, I think the record already shows that by cooling their smoke stack it means the union would pull the men out on strike, is that right?

A. I think Mr. Hartley made that very clear.

Q. What was said after Mr. Hartley made that comment?

A. Mr. Wyatt stated that he heard Mr. Hartley loud and clear and rejected that possibility and there was discussion about meeting again on May 22.

Q. Did Mr. Hartley, in making that statement, indicate what he meant by "they would have to do better," or was that understood by everyone?

A. Well, I think by that time it was understood. Mr. Hartley had proposed 60 cents over the three years.

Q. Interrupting) I take it the Association counter-offered far from it?

A. Far from it, yes.

Q. I see. Now, have you covered what you recall regarding the meeting of May 10?

[Tr. 2018] A. Between now and my other testimony, yes.

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[Tr. 2019] Q. (By Mr. Prael) It was on May 10, if I understand your testimony, that you were shown a certain telegram received by Mr. Wyatt from Mr. McMahon—

Mr. Prael: I am referring to R-208, Mr. Examiner.

Q. (By Mr. Prael—continuing) —do you recall being shown that telegram? I believe you testified to it.

A. Yes.

Q. Would you tell us what time of the day or at what point in the meeting you were shown that telegram, you and Mr. Hartley?

A. No, I can't.

Q. Well calling your attention to R-401, would you look that over, Mr. Johnston, please, and see if that refreshes your recollection as to the point during that meeting which is described in R-401 you were shown the telegram that I have referred to, R-208, you and Mr. Hartley?

[Tr. 2020] A. To answer your question, I don't see anything in these minutes that refers to that recess that I mentioned or telegram either.

Q. Yes, but there are references in these minutes of Mr. Prusia as to the time of certain caucuses and I was wondering if by refreshing your recollection by these minutes referring to caucuses at particular times you refreshed your recollection to the point where you could recall approxi-

mately when you, Mr. Hartley showed you the telegram from Mr. McMahon.

[Tr. 2021] A. No, because the caucuses would not necessarily be a recess. A caucus is an official act to consider something and a recess, everybody just mills around.

Q. Do you recall, then, whether the telegram, you saw the telegram during the morning or sometime in the afternoon?

A. I do not recall.

Q. (By Mr. Prael) After the meeting of May 10 which you have just been testifying to, when was the next meeting between the LSW and the Association representatives? Is that May 22?

A. There was another meeting on May 22, yes.

[Tr. 2022] Q. There was another meeting on May 22. Do you recall what time of day that was?

A. I think that that was in the afternoon, an afternoon session. I am not positive, but I think it was.

Q. Do you recall how that meeting opened?

A. Well, yes. In general, I do. It opened, I think, Mr. Wyatt stated to Mr. Hartley that if Mr. Hartley expected the companies to change their position that this expectation would not be realized and Mr. Hartley responded that if you would expect us to change our position that we are not going to do it and it almost ended up in a very short, 10-minute session.

Q. That was the beginning, what was the next thing that happened?

A. Mr. Wyatt stated that the companies had not changed their position on their wage offer. I asked what about all of the other issues, did you just brush all our other proposals aside and what about our proposal on a master contract. Mr. Wyatt stated that they had not brushed our other proposals aside, that they had given the proposals considerable consideration and they felt there was a wide disparity between the employers and the union on wages so he did not think anything would be resolved had he started discussing those other issues at the initial part of the meeting.

I think we had some more discussion about master con-

tract and there was discussion of their authority. There was further [Tr. 2023] discussion——

Q. (Interrupting) What was the discussion about, master contract and authority?

A. Well, I believe this was one of the meetings at which I challenged the authority of the Association members to actually negotiate a master contract.

Q. What was Mr. Wyatt's reply to your challenge? Did you use the word challenge in making that challenge?

A. I think I did.

Q. After you challenged the Association's authority to make this contract, what did Mr. Wyatt say to you?

A. He stated that——

Q. (Interrupting) Did he retort?

A. He responded.

Q. Responded, O.K., what did he respond?

A. He stated they had the authority but were unwilling to do so.

Q. What further discussion was had on economic issues, particularly calling your attention to economic issues, if there was further discussion?

A. There was more discussion on wages and this was a meeting I testified on yesterday where I raised the question of Crows Digest and were they a party to Crows Digest, the party that said a strike would increase the price of plywood, and as I testified, Mr. Wyatt responded stating that none of the mem-[Tr. 2024] bers of the Association, to use his language, would be a party to such a program and further that none of them were providing Crows Digest with any information in connection with the discussions that were going on.

Q. Do you recall after Mr. Wyatt had said the companies, the Association was not changing its position on wages and Mr. Hartley said the union wasn't changing its position on wages, did you ask, "all right, we are all here, what do you suggest we do now," and Mr. Wyatt said, "Well, we expect to bargain," You said, "Fine, let's bargain" and Mr. Wyatt said, "O.K., shoot," or words to that effect?

A. Yes, I think that took place; in substance.

Q. In substance?

A. Yes.

Q. In connection with your statement let's bargain, did you say, "Make us a new offer?"

A. I think I did.

Q. Do you recall anything further that was said in there either in specific words or in substance during the meeting of May 22, 1963, between LSW and the Association?

A. Nothing that I haven't already testified to in the record.

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[Tr. 2026] Q. (By Mr. Prael) Mr. Johnston, coming back to the May 22 meeting, I believe you testified that at some time during that meeting you made the statement that the union must have a contract covering all areas, all areas being defined as I understood you to use it, as including the plants east of the Cascades. Do you recall that testimony?

A. Well, in a general sense I think you are correct. In the discussion of the master agreement we wanted a contract covering all areas and all issues, yes.

Q. Did you say to Mr. Wyatt that you wanted that or that it was necessary that you have it? How did you put it?

A. On May 22 I don't recall how I put it. I am sure I conveyed the same idea that we were there to talk or bargain on all issues in all areas and wanted a master agreement with a united status.

Q. Using those terms—in using those terms were you indicating to Mr. Wyatt that you wanted a master contract covering not only the plants which the association said it was entitled to speak for, but also the plants east of the Cascades at Klickitat and Libby?

A. I do not think I specified plants in the discussion on [Tr. 2027] May 22. The discussion on May 22, as I recall, was argument between Mr. Wyatt and me on whether or not the companies could enter into a joint contract and Mr. Wyatt said we could enter into a joint settlement and explained each company would put it in its own contract.

Q. He used the term "association settlement"?

A. I think on May 22, we discussed in terms of a joint contract or a joint settlement that he was talking about. It meant what you are saying but I don't think that was the term used on May 22.

Q. Did you during the May 10 meeting make the statement that the union's proposal for a master contract included the requirement that the contract cover all areas that you determined including Libby and Klickitat?

A. As I testified yesterday, I do not think I repeated the May 9 statement again on May 10, on that particular point.

Q. I see. On that particular point, the statement regarding all areas, is that right?

A. Yes, that is the point we are talking about.

Q. But you did repeat on May 22?

A. I think I did, yes.

Q. Did Mr. Wyatt make any reply to your statement that the contract must include all areas? Did he make any statement referring to the telegram which he had shown you at the May 10 meeting?

[Tr. 2028] A. On what date?

Mr. Prael: We are now talking about May 22.

A. I don't know. He could have but I don't recall.

Q. (By Mr. Prael) He could have. Do you recall any discussion of the—at the May 22 meeting—any discussion referring to the telegram of May 10 from St. Regis to Mr. Wyatt?

A. Not specifically. That is, I don't recall it at all to make it clear.

Q. Did I understand your testimony, you called no reference to Libby and Klickitat at the time as such?

A. Not as such.

Q. On May 22?

A. Well, I think I made the statement that we have to negotiate for all areas and all the issues while I did not say Libby or Klickitat or Poulson, Montana, by name, I think that was understood at the time.

Q. That was understood by Mr. Wyatt?

A. I say I think it was. I don't know.

Q. You think it was.

Did Mr. Wyatt say anything to you after showing you or Mr. Hartley showed you that telegram of May 10 to indicate that the decision of St. Regis as expressed in that telegram was not a final decision?

Mr. Byrholdt: At what time?

Mr. Prael: At any time.

[Tr. 2029] A. No, he did not. As a matter of fact, as I have already testified, he put it the other way. He said the inclusions or exclusions were up to each company and that the Association had no authority and could not discuss any plants east of the Cascades.

Q. At the time you made this statement to Mr. Wyatt in the meeting of May 22, you knew, did you not, that LSW had already done separate negotiations with the local—with the St. Regis company, its local management, for either Klickitat or Libby or both. Didn't you know that?

Trial Examiner: What time?

Mr. Prael: Before May 22.

A. I didn't know and I don't know it now.

Q. (By Mr. Prael) I see. Do you know that sometime during the month of May LSW did again have such separate negotiation with St. Regis over working conditions at Libby and Klickitat at that time?

A. On local issues?

Q. On all issues applicable to Libby and Klickitat?

A. No, sir, I didn't know it then, or since, or now.

Q. You didn't participate in them, is that right? Well, you don't know that there were such ones?

A. I don't think there were any such.

Q. All right. Have you asked Mr. Hartley if there were any such?

[Tr. 2030] A. I have never asked him. I don't think it ever happened.

Q. I see.

A. You might ask Mr. Hartley.

Q. Now, in making that statement on May 22—I withdraw that question.

On May 22 or on May 10, did you make any requests to bargain on health and welfare?

A. No.

Q. Coming back to the health and welfare issues, I understand your testimony that at that time it was your opinion that some of the contracts between the LSW locals and the companies represented by the Association opened for bargaining on health and welfare.

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Q. (By Mr. Prael) Have you since that time been able to check or have you checked to see whether or not the openings, there were any such openings on health and welfare?

A. I have testified on that both yesterday and this morning but I can repeat it. It was my understanding that some of the contracts, local contracts, were opened on health and welfare. I did not know if all of them were or not.

[Tr. 2031] Q. Would you—

A. (Interrupting) Our approach was quite different. The Western Council itself has a right to make proposals such as it did on health and welfare on independent coverage, automation and classification.

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[Tr. 2032] Q. (By Mr. Prael) Mr. Johnston, when was the next meeting between representatives of the association and representatives of the LSW in which you participated —

Mr. Byrholdt (interrupting) : Following May 22?

Mr. Prael: Yes, following May 22.

A. The next meeting was on June 3 and I participated.

Q. (By Mr. Prael) Did that meeting start in the morning or the afternoon?

[Tr. 2033] A. It started in the morning.

Q. Now, as I recall your testimony, the other day, you testified that the meeting was opened by United States Conciliator Smith.

A. Yes.

Q. And he asked the parties to state their position, is that right?

A. Yes.

Q. What was stated next and by whom?

A. As I testified, I think that I stated the entire background as far as the union was concerned. Do you want me to repeat it all?

Q. No. Stop there. I am suggesting to you that you are wrong. That, in fact, in reply to requests by Commissioner Smith that the parties stated their position. Mr. Hartley immediately stated our position is 60 cents per hour across the board. Do you recall that?

A. Well, that could have happened, yes.

Q. You don't recall it, but it could have, is that right?

A. That's right.

Q. And it may not be that you replied on behalf of the Association immediately after Commissioner Smith's requests for statement of position.

A. I am sure I never replied on behalf of the Association.

Q. Oh, I mean on behalf of the LSW, excuse me.

[Tr. 2034] A. No, it could not be.

Q. I will show you General Counsel's Exhibit 61.

Trial Examiner: That is the same as Respondents' 356.

Q. (By Mr. Prael) I will show you G.C.-61 which is in evidence and is the minutes of the meeting of June 30, 1963 and ask you to look at the first paragraph which states that the Commissioner opened the meeting by saying he did not wish to waste the time on history but he would ask each side to state his present position. Mr. Hartley stated that they were asking for 60 per cent across the board and a three year contract. Doesn't that refresh your recollection as to how the meeting opened?

A. Well, the meeting could have opened with the sentence of Mr. Hartley like that after Mr. Smith opened.

Q. I am not asking you what could have happened. Does that refresh your recollection as to what happened when Commissioner Smith asked for a statement of position? Does that refresh your recollection?

A. I don't know if it does or not.

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[Tr. 2035] Q. (By Mr. Prael) Mr. Johnston, I will show you the minutes now introduced in evidence as R-403, referring to the meeting of June 3 that states at the beginning, "SMITH: Called the meeting to order. Now that picture taking has taken place he asked both sides to state their positions as of this morning. Wyatt: I will defer to my colleague, Mr. Hartley. Hartley: Our position is 60 cents per hour across the board." Does that refresh your recollection?

A. Well, I am confident that that is what happened.

Q. But you have no reason to doubt the correctness of these [Tr. 2036] minutes in that respect?

A. No, sir but that went so fast; that was about a half a minute discussion and I do not personally recall it having happened. I am confident that it did though.

Q. Yes. Do you recall that Mr. Wyatt described the offer made to the union at the previous meeting?

A. Yes.

Q. What did Mr. Wyatt state in that regard?

A. I have forgotten some of the proposal, Mr. Wyatt made, in the previous meetings but he did outline them, yes.

Q. Was something said regarding the wage demand by Mr. Hartley, the 60 cent wage demand by Mr. Hartley?

A. Was something said by Mr. Hartley or Mr. Wyatt?

Q. No, by Mr. Wyatt.

A. Well, he discussed the wage proposal that he had made. He objected to the union's.

Q. Mr. Wyatt discussed what?

A. He discussed the wage proposal that he had made and rejected the union's proposal.

Q. Did Mr. Wyatt also say something about the hours of labor problem?

A. Yes.

Q. What did he say regarding the hours of labor problem?

A. Well, he was explaining partly to the Commissioner and partly to everybody what they wanted on the seven-day work [Tr. 2037] week and that was their position, seven days, three shift operation.

Q. Did you say anything about—in connection with hours of labor or anything in connection with the scheduling of maintenance employees?

A. Whether it was at this meeting or the previous meeting, it could have been at this meeting, Mr. Wyatt withdrew the proposal of the employers in changing the maintenance shifts or hours.

Q. How did he propose that the maintenance hours or shifts be changed?

A. Well, as I recall it, the original proposals were to have all employees on a seven-day straight time operation and that at this or some other meeting he withdrew from that proposal the maintenance employees leaving the proposal only applicable to production employees.

Q. Did he make reference to the union or the Association proposal to change the contract provisions regarding employees working during the processes of grievances?

A. Yes. As I explained yesterday, I outlined the position of the union up to date on what had happened. Mr. Wyatt did the same for the employers on all points.

Q. Did you during that meeting state a respect in which you agreed and the respects in which you, as spokesman for the union, disagreed with the proposals made by Mr. Wyatt on behalf of the [Tr. 2038] Association?

A. Yes, I think I did.

Q. Was there discussion during the meeting of what kind of a contract should be entered into between the Association and the LSW?

A. As I testified to twice now, yes.

Q. By twice are you referring to once in the California Unemployment Hearing and once here?

A. I am referring to the day before yesterday and yesterday and today.

Q. Would you tell us what you recall the discussion was regarding the type of contract that might be entered into between LSW and the Association, what was the discussion; can you tell us what you said and what Mr. Wyatt said or anyone else said, not the exact words but in substance?

A. I outlined to the Commissioner the union's basis and reasons for proposing a master contract in just as much detail as I have already explained here. I outlined the purpose for it, the fact that the employers refused and rejected it. I outlined their requests to have the right to consider a strike against one as a strike against all and that it was a two-way street and we wanted unit protection also and that the employers rejected it. That is a brief summary of my testimony that is already in this record here that I have given.

Q. Yes. Now, did I understand—as I understand your testimony [Tr. 2039] you said the union wanted a contract that was at least sufficient to give the union unit protection meaning protection against piecemeal decertification and raids by other unions, is that right?

A. That's right.

Q. At that time Mr. Wyatt had told you that the Association would enter into an Association agreement which would bind all its members to carry the provision thereof into the separate contracts had between the members and the locals, isn't that right?

A. He had outlined that they would enter into an Association settlement agreement as he called it, requiring each company to incorporate it in its individual contract.

Q. Now, as one familiar with labor relations for many years, you knew, did you not, that such a settlement agreement entered into by the Association as described by Mr. Wyatt was sufficient to give the union the kind of unit protection it asked?

A. No, I did not.

Q. You didn't know that?

A. No, and I doubt if you do Mr. Prael.

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[Tr. 2040] Q. (By Mr. Prael) Now it was during this meeting, was it not, where you said, "Well, Mr. Wyatt, shall we drop both the issues; master agreement on our side and on your side the demand for a variable work week," or words to that effect; isn't that right?

A. As I testified yesterday, yes.

Q. At this meeting, was reference made to the position of the parties on the length of the contract that might be entered into between the Association and LSW?

A. I think in the summations, probably both Mr. Wyatt's and mine, on the issues in dispute or in agreement, there was a reference made that there was no disagreement on a three year contract.

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[Tr. 2041] Q. (By Mr. Prael) As I understood your testimony, during this meeting the Commissioner was advised that the parties were not in disagreement on the term of a contract to be entered into, for three years, am I right?

A. I think that is correct.

Q. Now, were there any other issues which the parties—
regarding which the parties advised Mr. Smith they were
not in disagreement on?

A. I understand your question but I am not sure I can
recall specific economic issues. There may not have been
any issues [Tr. 2042] left by June 3 on the question of
prorated vacations for retired employees—well, I am not
certain but at least it was an area where there wasn't any
serious dispute.

[Tr. 2043] Q. (By Mr. Prael) Was that said to the Com-
missioner or did somebody say it during that meeting that
you were not in serious dispute in the area of pro-rated
vacation?

A. We were making reports to the Commissioner on the
present status. While I do not recall all of the details, as I
testified, there had been minor variations in the position of
the parties but there had been no substantial change in the
position of either party on the basic issue. Now, what those
variations were in detail on the economic issues as of a par-
ticular date, namely, June 3, I am hard-pressed to recall.

Q. (By Mr. Prael) Do you recall whether the parties
were not in substantial agreement on the automation com-
mittee problem, on June 3?

A. They were not.

Mr. Byrholdt: Read the—

A. (Interrupting) They were not in any substantial
agreement at all.

Q. (By Mr. Prael) They were in disagreement in that
area?

A. Yes.

[Tr. 2044] Q. Were they in substantial disagreement on
the matter of bracketed adjustments?

A. On dollar amount?

Q. Well, in what respects were they in agreement and what respects were they in disagreement in that area?

A. The only real way I can answer your question, Mr. Prael, is to state that in my opinion if bracketed adjustments were the only thing remaining between the parties there would not have been a strike.

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Q. (By Mr. Prael) What was said regarding the wage proposal of the union at that time? What was the position of the union on wages at that time as expressed by either you or Mr. Hartley?

A. The stated position of the union on the wage proposals at that time was 60 cents an hour for three years with an additional statement that that was not our final position, that the companies would have to get up higher than they were.

Q. This meeting lasted all day, did it not?

A. Yes.

Q. Was the difference between the Association and the LSW on wages discussed both in the morning and in the afternoon sessions?

A. I am sure it was.

[Tr. 2045] Q. Was that the principal mode of contention?

A. You mean timewise, the time that was taken in the discussion?

Q. Yes.

A. Yes.

Q. What was the Association's proposal as to wages during the morning session?

Mr. Byrholdt: If you recall.

A. I don't know, I don't know.

Q. (By Mr. Prael) Did they state, did Mr. Wyatt state what the position of the Association was during the morning session?

A. Yes, he did.

Q. What was it?

A. I do not recall. All I recall is either Mr. Hartley or I stated that that was lower than they have already offered to the IWA.

Q. During that meeting did Mr. Wyatt on behalf of the Association make any new wage proposals?

A. Yes.

Q. When did he make that new wage proposal?

A. Oh, sometime during the day he increased the proposal to the Lumber and Sawmill Workers to be the same as the offer they had already made to the IWA.

Q. Was that new wage offer made during the morning or the [Tr. 2046] afternoon?

A. I don't know.

Q. You don't recall?

A. No.

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Q. (By Mr. Prael) Now, I am asking the witness what is the difference between the offer made by the Association on June 3 and the offer which had previously been made by the Association to the LSW?

A. I don't recall. I did recall and I gave you the previous offer, it was made on May 10, and it was not changed, but on June 3 they made an upward variation in the offer and I do not recall exactly what it was.

[Tr. 2047] Q. If I recall correctly, you testified that on May 10 the Association made an offer, wage offer, to LSW for an increase on a percentage basis, is that right?

A. Yes, right.

Q. The new offer made on June 3 by the Association to the LSW, was that a cents-per-hour offer or again a percentage hour?

A. It was a cents-per-hour.

Q. The offer provided for increases in wage rates for more than one year?

A. Yes.

Q. Do you recall the amount of cents per hour increase for any of the three years?

A. No, specifically I don't. That is what I was saying, I can guess, but you don't want that.

Q. Do you recall what the total amount of the cents-per-hour offer was, that is, for the three years, referring to the offer of June 3?

A. In the offer; in the area of 21 cents.

Q. In making the wage offer at the June 3 meeting, did Mr. Wyatt on behalf of the Association make this new wage offer, did he at the same time include an offer on the other issues then in dispute between the Association and LSW?

A. Yes.

Q. Did it, the offer on these other issues, vary from the previous offers made by the Association on those issues?

[Tr. 2048] A. Other than the one I have already testified in connection with the pro-rated vacation for retired employees?

Q. Yes.

A. And the withdrawal of the maintenance men from the seven-day week operation—I don't believe there were any other variations that I can recall at the moment.

Q. Do you recall whether or not the negotiators for the LSW took the new proposal made by Mr. Wyatt on behalf of the Association at that time under consideration or what did they do?

A. Well, I am sure they considered it.

Q. Pardon?

A. I am sure they considered it.

Q. Well, what do you recall was done about it? After that proposal was made, what happened?

A. I am sure there was considerable discussion about it not being adequate and that there would have to be a lot of improvement before the end of the day—

Q. (Interrupting) Did anybody specify in what respect the offer had to be improved?

A. Well, you are asking about wages or what?

Q. I am asking what was said. You said the offer had to be improved, the LSW representative said the offer had to be improved. Did they specify of did you or Mr. Hartley specify to Mr. Wyatt how the offer had to be improved?

A. Well, see, not in that sense.

[Tr. 2049] Q. I see.

A. We had already outlined—this is the first day the Commissioner had been there. We had already outlined our respective positions and respective basic issues. When we got into the economic issues, Mr. Hartley certainly made it clear that the wage offer was insufficient and that was the last day before there would be a strike if something

wasn't done and something substantial done before the end of the day.

Q. Well, from the time the employer—I am suggesting to you—the employer made that new wage proposal, when the parties met after the noon recess, is it a fact that they continued to debate how much money had to be put on the table from that time until the adjournment of the meeting?

A. It could very well have been.

Q. Well, regardless of what could have been, Mr. Johnston, and I realize you can't remember everything and you have done very well, will you tell us what your recollection is in regard to the meeting of June 3, particularly in the afternoon?

A. Well, when you pin me down to it, to the time, we came back from lunch and until the meeting recessed, which, as I recall was around 3:30 or later, you are talking about a two-hour period and you ask me was wages the only thing discussed. It could have been but I imagine something else was said during the period of an hour and a half or two hours.

Q. Well, do you recall anything further regarding the meeting [Tr. 2050] of June 3 which I understand you say lasted until about 3:30 p.m.?

A. Nothing other than what I have testified to in this regard in the last day or two.

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Q. (By Mr. Prael) Regardless of your wishes, can you tell us of your present recollection of any further events or any further discussion that went on at the June 3, 1963, negotiating session between the LSW and the Association [Tr. 2051] A. Nothing other than what I have already testified to in this record.

Q. Do you recall how the meeting ended?

A. Yes.

Q. All right, would you tell us—maybe you have in the last two or three days told us, I don't recall, and I can't find it in my notes—what was said to end the meeting and who said it?

A. As I recall, the last thing that was said in the meeting was by Mr. Hartley, who stated that Mr. Wyatt and Mr.

Johnston had done a good job but they didn't get the job done and the union would now have to do it in their own way.

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Q. (By Mr Prael) Was any reference made to a strike at the end of the meeting or near the end of the meeting?

A. Near the end, yes.

Q. What was said about a strike?

A. Mr. Hartley made it clear, I thought, to everybody that if that was their final offer that negotiations had deadlocked and that the union was going to take economic action against some but not all of the companies or plants involved.

Q. Do you recall him stating that the Association and the [Tr. 2052] union are at an impasse?

A. Well, that does not sound to me like Mr. Hartley's language.

Q. You took a look at R-403. Calling your attention to the statement on the last page—these are Mr. Prusia's minutes—the time is given as 3:20 p.m. "Hartley: We have considered the employers' proposal and I think we are at an impasse." Does that refresh your recollection as to whether he said we are at an impasse?

A. No, it does not. It confirms my opinion that Mr. Prusia would summarize several stronger words into one word, impasse.

Q. I see. Well, let's take a look at G.C. No. 61. Coincidences are very strange. In the last page, I will read it to you. Mr. Wyatt stated that "Mr. Johnston stated that what is needed, to get the 8½ cents up by about 6½ cents for the first year. At this point there was a short caucus by the union, following which Mr. Hartley stated that we are at an impasse, that the employers' offer is not acceptable to the people the union committee represents. With the right amount of money the union would look at some of the employers' proposals." Does that refresh your recollection as to a statement made by Mr. Hartley at the end or near the end of the meeting?

A. I have already testified what I thought Mr. Hartley stated, that we had deadlocked. He could have used the

word impasse, but it certainly doesn't ring a bell with me. I would [Tr. 2053] assume it is the same idea.

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[Tr. 2056] Q. (By Mr. Prael) Mr. Johnston, during the meeting of June 3, did Mr. Hartley tell Mr. Wyatt that the companies had to open up the purse strings and I quote the words "open up the purse strings"?

Mr. Byrholdt: Quote from where?

Mr. Prael: I am purporting to quote Mr. Hartley as it was reported to me.

A. The answer to your question would be yes, although the frame of reference to the meeting between the employers and the union on that day might not be correct.

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Q. (By Mr. Prael) Oh, yes, I recall you testified to a further meeting at which you and Mr. Hartley and certain other persons were present. It may have been said in that meeting, is that correct?

A. That is correct.

Q. And that meeting followed the meeting to which you testified before the recess between the full committees of the two parties?

[Tr. 2057] A. That is correct.

Q. What time was this further meeting?

A. Well, as I testified yesterday, I think it commenced between 5:30 and 7 in the evening at the Congress Hotel in my room between Mr. Wyatt, Mr. Hartley, and me.

Q. And it was at that meeting that Mr. Hartley told Mr. Wyatt that the wage offer would have been increased too in order to avoid the strike. Did he say that in that meeting or words to that effect?

A. Well, among a lot of other things; words to that effect were said by Mr. Hartley, yes.

Q. And was it in connection with that statement that he used the phrase "open the purse strings"?

A. Well, mentioned more money, yes.

Q. When was the next meeting that you attended between

representatives of the LSW and representatives of the Association?

A. You continue to use the word "representatives of the Association" and I continue to tell you that Mr. Wyatt was the only one that said he was representing the Association.

Q. Well, just a moment. Didn't he at the opening meeting on May 9 tell you, introduce you and the other representatives from LSW to what he described as the negotiating committee for the Association and tell you who they were?

A. He did not. He introduced what he described as members [Tr. 2058] of the Association and individuals representing the companies that were members of the Association.

Q. Did he describe anyone as members of a Negotiating Committee for the Association?

A. I think he said those people who were there were the Negotiating Committee.

Q. That was your understanding, correct?

A. Yes.

Q. All the people there other than those that were connected with the union in some way were part of the Negotiating Committee for the Association?

A. Oh, no. I am sorry. There were observers there. For example, I think at some meetings there were as many as eight people there from Weyerhaeuser. All of them were not on the Negotiating Committee.

Q. That is what I am getting at. He described some individuals as being on the Negotiating Committee?

A. Yes, as he introduced them the first day.

Q. When was the next meeting between the Negotiating Committee for which Mr. Wyatt, as I understand it, was the spokesman and the Negotiating Committee for the LSW?

A. July 1, 1963.

Q. Was that a meeting called by the Conciliator?

A. Yes.

Q. This was the same Conciliator, Commissioner Smith?
[Tr. 2059] A. I believe so.

Q. At that meeting was any reference made to the fact that unfair labor practice charges had been filed?

A. Not directly as I recall. There was reference made to it in the sense of discussing—you don't want my answer?

Q. Yes, go ahead.

A. There was reference made to it in the sense that people discussing—Mr. Wyatt said we are despairing from position in connection with a legal case and I made some comment, let's get at the substance of the issues and let the attorney argue the technicalities.

Q. You made that comment?

A. Words to that effect, so there was reference made but I don't believe there was any direct naming of any charges having been filed by them.

Q. The reference to the pending legal case was the pending unfair labor practice charge?

A. Everybody understood it that way.

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[Tr. 2060] Q. (By Mr. Prael) Mr. Johnston, after you made the statement, leave the technicalities or the legal problems to the lawyers, what happened?

A. Very little.

Q. Well, will you tell us what that little was?

A. The July 1 meeting was a realitively short meeting. As I outlined yesterday, we stated that with a lockout—

Q. (Interrupting) Just a moment, Mr. Johnston. Did you make the statement regarding leaving the technicalities and problems to the lawyers at the beginning of the meeting or the end of the meeting?

[Tr. 2061] Mr. Byrholdt: Did you withdraw your previous question?

Mr. Prael: Yes.

A. I imagine somewhere along the meeting, I don't know when.

Q. (By Mr. Prael) Well, my question was, would you tell us what happened after you made that statement, if you can recall? Maybe you were telling us. I don't know.

A. Nothing happened except for more of the same argument and people taking positions.

Q. Mr. Johnston, tell us as nearly as you can what was said and who said it as nearly as you can remember it after you made that remark?

A. I can't answer your question because I don't recall when that remark was made, what period or what context of the discussion.

Q. Did Mr. Wyatt during that meeting say that this group can only meet as an Association and if bargaining cannot be done on that basis, then bargaining must end?

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A. He said the meeting was at an end.

Q. (By Mr. Prael) The meeting was at an end. Otherwise the statement I made, is correct?

A. Yes, this statement followed mine.

Q. Do you recall what happened after Mr. Wyatt made that [Tr. 2062] statement? Did the meeting end?

A. No.

Q. Well, tell me what happened after Mr. Wyatt made that statement?

A. Mr. Wyatt followed mine, which I have already outlined and the Conciliator attempting to get people to talk, get them together—as I recall the Conciliator called a recess to talk to each group separately after which he got the groups back together again to see if there was any change of position that might settle the strike and lockout. There was no change of position by either group, as I recall. At that meeting. We handed—

Q. (By Mr. Prael) What do you mean by the word "position" and then proceed with your answer.

A. By the word "position" I mean the two positions that were taken originally on May 9, by both employers and the unions and their respective positions and issues and their contracts in recognition areas. It went right down the line. On July 1 [Tr. 2063] nobody changed their position on that. On July 1 we handed them a letter dated July 1 stating that position in writing.

Trial Examiner: Who handed them?

The Witness: I handed a letter signed by Mr. Hartley to each of the companies present dated July 1.

Q. (By Mr. Prael) Now, before that happened—that happened near the meeting that that letter was handed to Mr. Wyatt?

A. My recollection would be that it was near the beginning of the meeting.

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Q. (By Mr. Prael) Before that letter was handed to certain persons present, do you recall that Mr. Wyatt made a change in the Association's offer to LSW?

A. On July 1?

Q. Yes, on July 1.

A. I do not at the moment recall that, no.

Q. You don't recall it?

A. That doesn't mean it didn't happen. It means I don't recall at this moment.

[Tr. 2064] Q. Do you recall any change in the proposal theretofore made, either by the Association to the union, or by the union to the Association?

A. On July 1?

Q. July 1.

A. No, I don't, not offhand. Not at the moment.

Q. Do you recall anything further that happened at the meeting of July 1?

A. Other than my previous testimony here in more detail, no, I don't.

Q. Did you hand out more than one copy of these letters, more than one letter? You say you gave some people some letters.

A. It was the same letter addressed to six different companies.

Q. That's what I wanted to know. Was there one addressed to the Association?

A. No.

Q. Who handed out the letters?

A. I did.

Q. When were they written?

A. I don't know when they were written.

Q. Who prepared them, did you?

A. Mr. Hartley.

Q. Mr. Hartley prepared them. At your direction?

A. No.

Q. With your help?

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[Tr. 2065] Q. (By Mr. Prael) Did you seal them in the envelopes in which they were delivered?

A. No.

Q. They were delivered in sealed envelopes, weren't they?

A. They were handed across the table.

Q. In sealed envelopes?

A. I stated, yes.

Q. Don't you recall that those letters were not handed across the table to the persons sitting across the table until after you had heard a further proposal by the Association?

A. Mr. Wyatt could have made a further proposal. I am not stating he didn't. I am only saying that at this time I don't recall it.

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Q. (By Mr. Prael) Would you look at that exhibit, which has now been marked G.C. 62 in evidence, and see if that refreshes [Tr. 2066] your recollection as to whether or not Mr. Wyatt during that meeting in any way changed or amended the proposal theretofore made by the Association to the union on the issue in dispute?

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Q. (By Mr. Prael) Does that refresh your recollection, Mr. Johnston, in respect to whether or not Mr. Wyatt, during that meeting, did change or amend an offer theretofore made by the Association to the LSW?

A. Yes, I would think that the two points mentioned here—I think those did happen, yes.

Trial Examiner: On what page?

The Witness: Page 2.

Trial Examiner: Paragraph?

The Witness: Down by the numbered 1 and 2. Actually the number 2 is more of a clarification but it was a change even though—

Q. (By Mr. Prael—interrupting) It was a change in position of the association, is that right?

A. Yes.

Trial Examiner: This is referring to the paragraph on [Tr. 2067] page 2 of General Counsel's 62, which is the numbered paragraph, second to the bottom.

Q. (By Mr. Prael) The statement appears there as having been made by Mr. Wyatt. We withdraw the Tuesday to Saturday workweek only. Do you recall at that meeting Mr. Wyatt did withdraw the company proposal regarding Tuesday to Saturday work week, is that right, do you recall that?

A. Yes, as I said, I think these two things happened. Yes, as stated in these minutes.

Q. Do you recall that just prior to that the Commissioner said that he was told by the union that the company had any proposal the union was willing to discuss it, or words to that effect?

A. The Commissioner said that. I may not have understood your question.

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[Tr. 2069] Q. (By Mr. Prael) Mr. Johnston, do you recall that any time during the meeting of July 1 that the Commissioner said that he was instructed by the union committee to tell the employers or the Association that if they were willing to change their position with regard to wages and other issues then the union would be willing or is willing to modify its position on wages? Do you recall any such statement being made by the Commissioner during the July 1 meeting?

A. You see, there is where you confuse me. Do you mean did the union committee tell the Commissioner to go tell the employers this?

Q. No. Did the Commissioner state that statement in front of the employers and the union representatives?

A. I do not recall him making that statement in front of both the employers and the union together.

Q. Did he make the statement?

A. Yes.

[Tr. 2070] Q. Who did he make the statement to?

A. In the separate meeting; the union committee met separately with the Commissioner. Mr. Hartley and I told the Commissioner that if the employers would move from their position that we were in a position to move from our position. I would assume—

Q. (Interrupting) Did you tell him, move from their position in regard to wages or what?

A. Well, it would be logical that his conclusion of wages and other issues would be correct and I was only adding—I would assume that the Commissioner made the same statement to the employers but I do not recall it being said by him in a joint meeting.

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[Tr. 2071] Q. (By Mr. Prael) These are minutes prepared by Mr. Prusia recording secretary of the LSW. If you will look on page two of these minutes, the following appears under the time 11:15 a.m. Over in the left hand corner it says Smith, I assume that refers to the Commission and after Smith the following. "Well, Gentlemen, during my caucus with the union committee I was instructed to tell the employer that if the employer is willing to change their position in regard to wages and other issues than the union is willing to modify its position on wages." Now, does that refresh your recollection that the Commissioner possibly made that statement, not only in front of the employer representatives but in front of the union [Tr. 2072] representatives?

A. In the joint meeting?

Q. Yes.

A. I already said it could have been, yes.

Q. You don't dispute Mr. Prusia's minutes in that regard?

A. Not in that regard.

Q. Now, Mr. Johnston, after the company, the association through its spokesman, Mr. Wyatt, first withdrew the Tuesday through Saturday work week proposal and changed their position as shown on page two, General Counsel's 62, what further happened during the meeting, if you recall, from your recollection rather than from my reference to the minutes. Do you recall anything further with-

out refreshing your recollection? If not, I am happy to have you refresh your recollection by reference to G.C.-62.

A. I have already looked at this, you gave it to me.

Q. Well, after looking at it, now what do you recall happened?

A. There was some discussion about the proposal.

Q. What was that discussion?

A. Well, mainly from the unions point of view that is not in your units that it wasn't a very big change of position and either Mr. Hartley or I inquired about further wage offer and your minutes are incorrect in connection with the 60 cents—

Q. (Interrupting) Are you referring to the statement on page three?

[Tr. 2073] A. The yes and no should be reversed.

Q. Let's get the record straight on that. We found an error in these minutes and I am sure that should not happen. On page three of the minutes of July 1, 1963, which is now G.C.-62, at the end of the—about the middle of the page at the end of a paragraph there.

Trial Examiner: Paragraph starting before an answer?

Q. (By Mr. Prael) Yes, the last sentence reads, "Mr. Wyatt asked if the union expected to settle on 60 cents." and it goes on to read, "To which Mr. Johnston said yes and Mr. Hartley said no." Now, is it your testimony that the answers were the other way around?

A. Reverse them please.

Q. In other words, it is your testimony that contrary to these minutes, when Mr. Wyatt asked if the union expected to settle on 60 cents your reply was no and Mr. Hartley's was yes?

A. That is right.

Q. During that meeting as you recall, did you or Mr. Hartley make any change in the union demand for 60 cents wage increase?

A. No, other than my statement which Earl promptly corrected me on.

Q. You are talking about Mr. Hartley?

A. Yes.

Q. Do you recall that there after Mr. Wyatt was asked to [Tr. 2074] make another wage offer?

A. Yes, I mentioned that a moment ago.

Q. He declined to do so?

A. He did. He did decline to do so.

Q. He did decline to make another wage offer on behalf of the Association?

A. Yes.

Q. Did this meeting end in an impasse again?

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A. Yes.

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[Tr. 2078] Cross-examination.

Q. (By Mr. Prael) Mr. Johnston, I understand from your testimony that after the July 1, 1963, meeting between the representatives of LSW and the representatives of the Association which you were testifying when we adjourned yesterday that the next meeting of such representatives at which you were present was August 12, 1963.

A. August 12 and 13 together, yes.

Q. The 12th and 13th, yes. There was a meeting you knew on July 15th but I understand from your testimony you were not present.

A. That is correct.

Q. Would you tell us who was represented at that meeting where the LSW was represented by you, Mr. Hartley and other committee members, is that correct?

A. On August 12 and 13?

Q. Yes.

A. Yes.

[Tr. 2079] Q. And the IWA was represented by Mr. Nelson and his committee?

A. Yes.

Q. The Association was represented by Mr. Wyatt and his committee?

A. Yes. I believe the Conciliation Commissioner was also there.

Q. Yes, and the Conciliator was there.

A. I think they had two at that time, Mr. Walker and Mr. Smith.

Q. What time did the August 12 meeting begin, or do you recall? Was it in the morning or was it an afternoon meeting?

A. I think that meeting started about 3 o'clock in the afternoon and recessed about 3:30.

Q. Could you tell me as nearly as you recall what was said by the various parties, the substance at least, who said it, starting with who opened the meeting?

A. I believe the Conciliator opened the meeting after which Mr. Hartley stated that the Lumber and Sawmill Workers' position was the same as it had been at previous meetings. Mr. Wyatt stated that the Association's position was the same, that it had at previous meetings and they could only meet on the basis of an Association and after the respective positions were given clearly there was a discussion about "Let's get [Tr. 2080] down to work and try to settle this dispute", and in the connection of this, Mr. Wyatt stated that the employers needed time for constructive consideration of new proposals which he thought would settle the economic dispute between the unions and the employers.

Q. The unions you are referring to fact that both the IWA and the LSW, is that right?

A. Mr. Wyatt was in that statement, yes.

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Trial Examiner: Was the word economic before dispute?

The Witness: In connection with Mr. Wyatt's statement he thought they could with time enough or in caucus that they could come back with a proposal on the economic issues that would resolve the dispute, presuming he meant the economic dispute.

Q. (By Mr. Prael) Well, before that you testified that there had been statements, I think, by Mr. Hartley and Mr. Wyatt about their positions.

A. Yes.

[Tr. 2081] Mr. Byrholdt: At what meeting?

Trial Examiner: At the August 12 meeting. Let's all get together here at the same time.

Q. (By Mr. Prael) After that was done someone said "Let's get down to work and settle the dispute", or words to that effect, that is how I understood your testimony, is that right?

A. Yes, that is what I said, but I don't know who said it, but that kind of statement was made on that morning or that afternoon.

Q. After that Mr. Wyatt said they needed time for constructive proposals on the issues, economic or otherwise, which might settle the dispute, or words to that effect, I am just trying to get the sequence?

A. Yes.

Q. Then what happened?

A. Based on Mr. Wyatt's statement, both unions agreed to the recess until the following morning.

Q. Did Mr. Nelson say anything during this meeting—maybe I didn't hear you—did he say anything? You quoted Mr. Hartley and Mr. Wyatt, did Mr. Nelson say anything?

A. I do not recall in that short meeting that afternoon if Mr. Nelson did or did not. He may very well have, but I do not recall.

Q. Is that all you recall of the meeting of August 12?

A. Yes.

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[Tr. 2083] Q. (By Mr. Prael) I will show you R-405, Mr. Prusia's notes of that meeting, does that refresh your recollection as to any further events in the meeting of August 12?

A. Yes.

Q. In what respect does it refresh your recollection as to matters you have not already testified to?

A. Well, following Mr. Hartley's statement that the Lumber and Sawmill Workers were taking the same position that they had taken at previous meetings, Mr. Nelson, apparently, did make the same statement. Then, following Mr. Wyatt's statement Commissioner Smith stated that

both parties are, all parties are, taking the same positions they have in the past and now let's proceed.

Mr. Prael: I wonder if I could see G.C. 58.

Q. (By Mr. Prael) Mr. Johnston, I call your attention to G.C. 58, which are the minutes of the Association of the same [Tr. 2084] meeting in evidence here and ask you to look at that. G.C.-58 actually includes two meetings but referring to the meeting of August 12 and the material under the date August 12, 1963, does that refresh your recollection as to anything further that occurred at the meeting of August 12 between the Association and the two unions?

A. I have looked at the Association minutes, if that is what they are, for August 12 and I could add one additional point to my previous testimony. Apparently, Mr. Nelson of the IWA made reference to settlements already made in the lumber industry and he hoped that the recess requested by Mr. Wyatt would take into consideration the settlements already made because the unions had to be fair to the employers with whom they had already settled.

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Q. (By Mr. Prael) That covers your recollection now of the meeting of August 12 as refreshed?

A. Yes.

Q. When was the next negotiating meeting between these same groups?

[Tr. 2085] A. The next morning, August 13.

Q. August 13. Do you recall how that meeting was opened?

A. Well, I believe the Conciliation Service opened the meeting.

Q. And will you relate to us as nearly as you can what was said, the subjects discussed, and who did it, if not the exact words, the substance?

A. Mr. Wyatt, other than that formal opening of the meeting by the Conciliator, presented a proposal as he stated on behalf of the Association for the terms of a settlement agreement to be binding on each of the individual company contracts. His proposals involved wages wherein

he made a wage proposal for three years, bracket[ed] adjustment for skilled and maintenance employees and an allowance for travel time in the woods. He made proposals on pro rated vacation for retired employees, proposed to establish a study committee in the industry for the purpose of studying automation. He proposed a classification committee consisting of representatives of both unions and representatives of the companies, members of the association. Following his proposals there was a certain amount of discussion on—

Q. (Interrupting) Is that all of the proposals as far as you recall at the present time?

A. Yes. Following his proposals there was a certain amount of discussion about details. For example, did the proposal exclude carrying out the previous agreements with Weyerhaeuser on union security, Mr. Wyatt said no, it did not exclude that.

[Tr. 2086] Q. Did I understand that Mr. Hartley or Mr. Nelson asked that question?

A. Mr. Nelson asked that question. Mr. Hartley inquired if the proposal would prohibit the completion of a previous agreement with Weyerhaeuser concerning a one per cent wage adjustment at the Arcata plant. Mr. Wyatt said, no, the proposal did not exclude that.

Q. By the word exclude—

A. (Interrupting) or prohibit.

Q. In other words, proposal B made by Mr. Wyatt in that meeting for the Association did not foreclose or prohibit further action on the previous agreements, is that what was meant by that "excluded"?

A. I was coming to that. Mr. Wyatt stated that these points pertaining to Weyerhaeuser alone would be submitted in a separate letter signed by him so that it would be part of any settlement reached. We then raised the question of the holiday pay—

Q. (Interrupting) You say "we". Do you recall who did it?

A. I think I did it. The holiday pay for those employees who were locked out over the July Fourth Holiday. Mr. Wyatt agreed that employees locked out over the July Fourth Holiday would receive the holiday pay under the contract as laid off employees are defined; but because that

agreement did not apply equally to all companies it did not include the struck plants— [Tr. 2087] he suggested that that be in a separate letter but also as a part of a settlement agreement reached. At that point, I believe the unions caucused and a proposal was made by Mr. Wyatt. Following that caucus the unions—Mr. Hartley and Mr. Nelson as spokesman, suggested some variation in the economic package as proposed by Mr. Wyatt.

Q. Can you tell us what those variations were? I withdraw that.

Coming back to the proposal made at the beginning by Mr. Wyatt on behalf of the Association for wages, do you recall what that wage proposal was?

Mr. Byrholdt: We are now talking about August 13?

Mr. Prael: Yes.

A. Not precisely. Generally speaking, it was a proposal of ten cents an hour effective June 1, 1963, two cents an hour for bracket[ed] adjustments and an additional four cents December, '63, six cents June of '64, six cents June of '65 with a travel time allowance to be worked out for the woods employees who travel on a basis to be worked out later through joint committees.

Q. (By Mr. Prael) Maybe you will come to this but were the wage proposals made by Mr. Wyatt on behalf of the Association which you have recited when the meeting began, were they accepted finally by the union or were there changes in those figures since the course of the meeting?

Trial Examiner: Since there were two, perhaps you'd better distinguish.

[Tr. 2088] Q. (By Mr. Prael) Were there changes by either union or was that the wage settlement finally made?

A. As I started to say earlier—

Q. (Interrupting) Maybe that is what you were coming to.

A. Following the union caucus the unions proposed some variation in the wage proposals suggested, for example, change in dates and change the four cents to five cents December 1, '63.

Q. May I interrupt you. You say the unions. You are now referring to both unions and they acted together on this?

A. Both Mr. Hartley and Mr. Nelson stated the same points on these particular restrictions, yes.

Q. One didn't make one proposal and another another proposal?

A. No.

Q. Do you recall what the changes proposed as to wages were?

A. Only what I have just stated. I don't recall precisely.

Q. There were both changes in the dates of increases and the amount of the increase?

A. Well, the amount, I think, was one cent more effective December 1, '63. There was considerable discussion about the method of computing travel time for loggers and there was considerable discussion about the application of the two cents for bracketed adjustments. The companies distributed their own selected bracket adjustments. Each company had computed the bracket adjustments within itself and the discussion that developed was partly on the basis that the companies had not [Tr. 2089] made a uniform application of a bracket adjustment formula. For example, and I can't tell you which company by name, but one company would have computed the two cents for bracket adjustments on a plant by plant basis. Another company computed the two cents for bracket adjustments for all of its plants covered by contracts with either the LSW or the IWA, as I recall it. Other companies computed the bracket adjustment on an overall basis of all plants by each union. There was considerable discussion of the problem that that created, particularly as I recall at the Crown Zellerbach plant at Saint Helena whereby allocating the bracket adjustment to both the LSW and the IWA units together, the company had then allocated the majority of the money to the IWA members and the Lumber and Sawmill members were pretty upset about that application of a formula.

Q. I see. Now, would you explain to us how this formula worked? I take it the two cents, I think it appears also in the record, is it that the two cents was used as the figure applied to so many hours work to arrive at a total sum

which was thereafter to be divided or applied to increase certain wages? Is that what you have reference to?

A. Yes.

Q. Of course, the men whose hours were used in computing that two cents were not always the same men that got the benefit of the computed fund, is that right?

[Tr. 2090] A. They could not always be because out of every hundred probably ten would get the adjustment.

Q. Well, in that discussion between the association and the unions, was that formula worked out finally or agreed upon or what was done about it?

A. It was not finalized on August 12 or 13 for all areas or all plants. There was a holdup on the settlement in some cases until that was resolved between the union and the particular company involved.

Q. General principal of applying two cents an hour to bracket adjustment was agreed upon but some of the details were left unsettled, is that right?

A. The approach on the formula, the language on the approach of the formula, yes, but the method of application was something else again.

Q. What was the problem regarding travel time that you referred to?

A. Well, I said there was a lot of discussion about the application, method of applying travel time. There was a discussion about where travel time would start, what starting points, et. cetera. That problem was not resolved in specifics. It was resolved by an agreement that there would be a committee, employers and both unions, to resolve and work out the travel time formula for each of the plants effected.

[Tr. 2091] Q. Mr. Johnston, as I understand your testimony an agreement was reached on travel time principles but specifics had not yet been worked out and that there was a committee representing—made up of the employers and both unions to work out the details.

A. Yes.

Q. I will show you R-222, which is the settlement agreement in evidence here of August 13, 1963, and turning to Page 3, which the paragraph number two which appears to be under the heading of B, Travel Time, the last sentence of that paragraph reads as follows:

"The committee comprised of representatives of the Association and of the Unions shall be appointed by the Association and the Unions for this purpose and purpose of discussing other problems related to the application of the travel time differential."

Is that the committee to which you just referred?

A. That is the committee to which I just referred. The language you just read was not the language necessarily used in the joint meetings. This language was subsequently developed that same evening in the language committee.

Q. A few moments ago you testified regarding a committee to study automation with representatives of the two unions and as I understood you to say, representatives of the members of Association. I call your attention to this settlement agreement [Tr. 2092] of August 13, 1963, R-222. On Page 3 under the heading of Roman numeral V, "Joint Committee", appears the following:

"A committee comprised of equal numbers of representatives of the Association and the unions, not to exceed six, to be appointed by the Association and three by each of the Unions, shall be established for the purpose of studying and making recommendations on the effects of automation on employment, displacement, et cetera, et cetera", is that the committee that you then referred to in your testimony?

A. Yes.

Q. Now, I believe you were testifying before we got on these specific points about the union's response to Mr. Wyatt's opening proposal on behalf of the Association. You testified that the union had come back and proposed certain changes in the wage figures, other possible changes in the proposals made by Mr. Wyatt. Will you continue from there as to what then happened at the meeting of August 13?

A. Well, after these various discussions which I mentioned, there was general agreement on all of the points under discussion at that moment and it was suggested, and I don't know by whom, that a language committee be appointed to prepare a draft of a settlement agreement incorporating those points on which a general agreement had been reached. Such a language committee was appointed and did meet.

Q. While the language committee—were you on the language [Tr. 2093] committee? I believe you testified you were.

A. Yes.

Q. While the language committee met, did Mr. Nelson, Mr. Hartley, Mr. Wyatt and others representing the Association on the one hand, and the union on the other, continue to negotiate or was the meeting adjourned while the language committee worked?

A. The meetings were adjourned, completed, subject to approval of the language or the draft of a settlement agreement.

Q. Yes. Prior to that time, was there any discussion of the issue which the Association had brought up, I believe with both unions, on working overtime or refusal to work overtime, was that matter discussed?

A. On August 13?

Q. On August 13.

A. I think it was. I think it was discussed to a point of general understanding that it was a two-way street, that the employees should not refuse to work overtime in concerted action involving an economic issue and the employers, on the other hand, agreed they would not use overtime to get the inventory down in case of a pending trade dispute.

Q. Do you recall any other matters being discussed between the negotiators before the language committee went to work?

A. I don't recall any others.

Q. Now, during these negotiations was there any reference to [Tr. 2094] pensions?

A. Are you talking about August 13?

Q. Yes.

A. No, there was not.

Q. You testified—

A. (Interrupting) Not directly, just keep in mind, the only discussion on the other items in the general opening statements, Mr. Hartley, Mr. Nelson, and Mr. Wyatt, everybody was maintaining their same position, there was no specific reference to pensions on that date with the exception I mentioned of Mr. Nelson inquiry concerning the

Weyerhaeuser—Mr. Hartley's inquiry, excuse me—well, that was on union security and wages, not on pensions.

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[Tr. 2095] Q. (By Mr. Prael) You have testified in certain regards to the mention of union security in connection with arrangements the IWA had for agency shop with Weyerhaeuser. Also, I believe, a similar arrangement between LSW and Weyerhaeuser. Was union security discussed in any other respects during this meeting?

A. Not during this meeting, no.

Q. During this meeting was any discussion had with problems in connection with health and welfare?

A. Not specifically, no.

Q. Was there reference to the handling of local issues?

A. Yes. As I recall, Mr. Wyatt's proposal on a settlement agreement included a general statement that the settlement agreement would close out all local issues. I do not believe that there was any agreement reached on that point or that it was discussed at any great length, but I know there was considerable discussion on that point later on in the language committee.

Q. Prior to the appointment of the language committee, you do not recall whether in the negotiation meeting itself representatives of LSW and IWA made any response to that proposal that you say Mr. Wyatt made, that all local issues be [Tr. 2096] closed down?

A. No, I don't, and there is a reason why I don't. There was a period of time in the joint meeting on August 13 when I and one of the employer attorneys and Elwood Taub of the IWA were sent off into an adjoining room to try and draft some language on one particular revision.

Q. I see.

That is the reason why I asked the question about whether the negotiation went on while the writing committee was functioning. Were you there during all the negotiation meeting between LSW, IWA, and the Association?

A. With the exception of 15 minutes to a half hour, yes.

Q. Was an agreement worked out on the overtime problem during the negotiation meeting finally?

A. The overtime?

Q. Yes; the overtime problem.

A. I am sorry, what do you mean?

Q. During the negotiation session, was an agreement reached on the overtime problem raised by the Association?

A. What do you mean by overtime, you mean the seven-day operation?

Q. No, I am not—that had been withdrawn as I understand, at an earlier session you testified about, but there was still an Association proposal regarding it as I understand it, obligation to work overtime and the union countered that they wanted [Tr. 2097] some restriction on the overtime. Was that worked out?

A. You asked that a few minutes ago; I answered you on that.

Q. There was an agreement finally worked out.

A. There was a general understanding, there was a two-way street. The union would not use concerted refusal to work overtime in connection with a possible labor dispute; employers likewise agreed that they would not use overtime as a method of completing inventory to assist them in a possible labor dispute.

Q. Is that all you recall of the session of August 13 prior to the time of adjournment when the writing committee went to work?

A. Let me back up a moment. I stated that I was absent from the full negotiation for a period of fifteen minutes to a half hour. I think that is incorrect. I don't think that there were any formal negotiations or meetings going on while I was absent. I think I was there all of the time.

Q. I see.

The negotiation meeting was adjourned when the writing committee that was appointed went to work, is that right, or what happened?

A. Yes, as I answered before, only I worded it a little differently. The meeting had been completed then, the general subject matters agreed upon were referred to a writing committee which did meet.

[Tr. 2098] Q. Do you recall anything further occurring at the meeting prior to that adjournment?

A. Well, there were lots of nice statements made by everybody about everybody else at that meeting.

Q. Well, I don't—I think that covers the subject. Is there anything else that you have omitted?

A. Not that I recall, of any substance.

• • • • •

Q. (By Mr. Prael) Mr. Johnston, now that you have looked at GC 58, or that part of GC 58 which constitutes the minutes of the Association for the meeting of August 13, is your memory [Tr. 2099] refreshed in any further respect regarding the events of that meeting, can you testify to anything further that happened during that meeting that you have not already covered?

A. Yes, I think I stated that I did not recall an agreement being made in the joint meetings that all local issues would be dropped.

Q. Yes.

A. Apparently such an agreement was made, however, as I testified, that point was discussed pretty thoroughly with some complicated problems involved with the language committee on that particular point.

Q. I am talking about the negotiating session of August 13, do you recall now that the question of closing out the local issues was discussed in the negotiating meeting of August 13? My questions have been limited to the meeting between the committees, full committees representing the Association on the one hand, with its spokesman, and the committees for the LSW and the IWA on the other.

A. I have already testified that the discussion was discussed. What I am adding now is apparently there was an agreement amongst the committee that the recommendation to the local unions insofar as the unions were concerned would include a recommendation to drop all local issues.

Q. Do you recall anything further about the meeting of August 13?

[Tr. 2100] A. Yes. Just a few minutes ago you made a statement in a question to me in effect that the employers' proposal on hours of work had been previously dropped. To clarify that, the employers' proposal on the hours of work were certainly not dropped prior to August 13, they just did not appear in Mr. Wyatt's proposal made on August 13 and Mr. Wyatt stated with respect to the absence of

that proposal that this was a bitter pill, particularly for Weyerhaeuser Company, to swallow.

Q. Do you recall anything further regarding the meeting?

A. Not of any substance, no.

.

[Tr. 2101] Q. (By Mr. Prael) Mr. Johnston, now that you have looked at R-406, does that refresh your recollection in any respect as to further events of the meeting of August 13?

A. No.

.

[Tr. 2123] Recross-examination.

Q. (By Mr. Prael) Mr. Johnston, do you have in your possession any further drafts that were looked at, prepared by, submitted by the so called writing committee on August 13, 14 in addition to the one you just produced at the request of Mr. Roll?

A. Yes.

Q. Could we see them please?

A. Not them, wait until I finish, and change "them" to singular. WE each—

Q. (Interrupting) Just a moment, I have asked a question.

A. I have my draft.

Q. May we have them?

A. Certainly.

Q. You have one more draft?

A. That's right.

Q. May we look at your other draft?

A. Certainly.

.

[Tr. 2124] (By Mr. Prael) Mr. Johnston, you have submitted here a document consisting of four pages with some handwriting. Was this drafted by you, this piece of paper?

A. Substantially, yes. I cannot recall if someone else was working with me when I dictated the portion that is

now typed. I am not now referring to the pencil notations, I can account for those.

.

Q. (By Mr. Prael) I will show you a copy of what has been marked Respondents' 407. This document as you will see bears certain signatures, I believe you recognize the initials. Do you recognize Mr. Hartley's initials?

A. Well, I would assume those are his, yes.

Q. And do you recognize that as the piece of paper that was [Tr. 2125] initialed, either near midnight or shortly after midnight of August 13?

A. No.

Q. You didn't see that?

A. No. May I explain?

Q. Yes, go ahead.

A. The language committee worked with two drafts or documents, namely the one the employer submitted and the one I submitted.

Trial Examiner: Why don't you get to the point right away.

Mr. Johnston, were you present when these initials were put on?

The Witness: No, I was not.

Mr. Prael: All right, that is a good reason.

Q. (By Mr. Prael) Do you recognize this, the printing in R-407 as the document which was turned over to Mr. Hartley, Mr. Nelson and Mr. Wyatt for signatures purpose by the writing committee?

A. No. You won't let me explain.

.

[Tr. 2127] Q. (By Mr. Prael) Mr. Johnston, you described the corporation by the same name, Daniel Johnston and Associates, that performs certain services. What is your financial interest in [Tr. 2128] that corporation?

Q. (By Mr. Prael) I am not asking your for amounts. Do you have a substantial or major financial interest in Daniel Johnston and Associates Corporation?

.

A. That is an entity that has nothing to do with collective bargaining. Do you still want your question answered?

Q. It has to do, as I understand it, with administration of health and welfare.

A. That is correct.

Q. Do you have a financial interest in that corporation?

A. Yes.

Q. A substantial interest?

A. Yes.

.

[Tr. 2224] Whereupon, FRED LOWRY WYATT was recalled as a witness by and on behalf of the Respondents having been previously sworn, was examined and testified further as follows:

.

[Tr. 2226] Q. (By Mr. Prael) Did you make notes of what you found in the way of reference?

A. First I have been through them to answer your first question.

Q. Yes, and did you make notes of what you found in the way of reference to health and welfare openings?

[Tr. 2227] A. Yes.

Q. Are these notes you made at that time?

A. Yes.

Q. Would you, by reference to those notes, tell us what you found in those files relating to health and welfare openings?

A. Yes. I found there was an opening by Local 2498, which represents Weyerhaeuser's Longview Operations with the Lumber and Sawmill Workers.

Q. What file?

A. LSW 12.

Q. All right.

A. In that opening, the local union, No. 2498, opened a number of items, quite a considerable number, I don't remember how many, under date of March 29, 1963, and on

April 29, 1963, they withdrew all those openings except for union security.

Q. Just for the record, for the purpose of the record, you say a letter dated April 29, 1963, the local union withdrew its openings previously referred to, including health and welfare?

A. Yes.

Q. Are you referring to LSW Exhibit 12-6?

A. Yes, that is the one.

[Tr. 2228] Q. That is a letter addressed to Weyerhaeuser Company, "Please be advised that Local No. 2498 is hereby withdrawing all contract demands except union security which have been agreed by us."

A. Yes, that is the letter.

Q. What other file did you find—in what other file did you find reference to health and welfare in any opening?

A. In LSW 17, Local 3091 representing International Paper Company at Vaughn opened on health and welfare, referring specifically to a desire for a local opening on health and welfare, dated April 25, 1963.

Q. I show you a letter in this file which is LSW 17. The letter is marked 17-8. Is this the letter to which you refer?

A. Yes, that is the letter.

Q. That is a letter dated April 25, 1963, addressed to International Paper by Local Union No. 3091 which states that they wish to negotiate a change in the health and welfare clauses, our contract, on a local level; is that the one?

A. I believe it is, but I would like to check it because that April 25 doesn't come out clearly as a 5 there. This is the file I looked at. Yes, it is April 25, it is the same letter.

Q. Did you find any other reference to health and welfare in any other local openings?

A. Yes.

[Tr. 2229] Q. Will you tell us what.

A. Lumber and Sawmill Workers No. 24 involving Local 2608 opened identically with some five U. S. Plywood operations, opened on health and welfare asking for identically in each one for a duplicate list of employees on whom a contribution has been made. Those are all northern California locations.

.

Q. (By Mr. Prael) I will show you, for example, LSW 24-17 being a letter to U. S. Plywood dated March 14, 1963. At the end of the letter appears the following, "Health and welfare amendment to provide an employer will furnish the union with a duplicate list each month of employees on whom a contribution has been made." Is that the type of letter you are referring to?

A. Yes, that is.

Q. Did you find any other reference in any of the local openings by the unions in these files referring to health and welfare?

A. No, I did not, sir.

.

[Tr. 2235] Q. (By Mr. Prael) U. S. Plywood is now a member of the Association?

A. Yes, sir.

.

[Tr. 2238] Q. (By Mr. Prael) You can answer that.

.

A. The answer is no.

.

[Tr. 2241] Q. (By Mr. Prael) Do you recall those series of questions?

Mr. Toulouse: That is too broad.

A. Yes.

.

[Tr. 2243] Q. (By Mr. Prael) My question, is this. Mr. Johnston testified, "Mr. Wyatt directly summed it up by stating that each, by stating that plus that, either party or both parties might change their minds to further discussion on some of these disputed [Tr. 2244] points, including disputed areas." Did you tell Mr. Johnston or Mr. Hartley or anyone representing the LSW on May 9 or May 10, that

the Association or the members of the Association might after further discussion change their mind about the excluded areas, to wit, plants east of the Cascades?

.

A. Did I read it?

.

[Tr. 2245] Q. (By Mr. Prael) I start on "What did he say? Not in exact words but as nearly as you can say.

"Answer: I believe that he stated that our long-range goals were not adverse to each other and that through further discussions on these points either one or both parties might change their position.

"Question: He said that through further discussions on these points either one or both parties might change their positions?

"Mr. Toulouse: He said in substance that.

"Trial Examiner: That is understood.

"Question: (By Mr. Prael) You understood him to mean, did you not, by these points the exclusion of the plants east of the Cascades as one, is that right?

"Answer: As one."

Did you at any time during the discussion of the exclusion of the plants east of the Cascades on May 9 or 10 suggest or state to Mr. Johnston that the association or members might change their position regarding such exclusions?

A. No.

Mr. Byrholdt: Objection.

Trial Examiner: Overruled.

A. No, I did not.

.

[Tr. 2250] Q. (By Mr. Prael) Is it true that on May 10, you and the union or the Association and the union set aside the dispute about the plants east of the Cascades?

.

A. No, we did not.

.

[Tr. 2254] Q. (By Mr. Prael) I will ask you that, referring to Mr. Johnston's statement of what you said. Did you make that statement in those words, or words to that effect or in substance as stated by Mr. Johnston on Page 1808 of the transcript?

A. No, sir, not with respect to excluded areas, no, sir.

.

[Tr. 2261] Q. (By Mr. Prael) Mr. Wyatt, you have heard the statements I have said you would make response to questions by me, if permitted to answer would those be the answers you would give?

A. Yes.

.

[Tr. 2262] Q. (By Mr. Prael) If I asked you questions related to those matters, is that the answers you would give?

A. Yes, it is.

.

[Tr. 2263] Cross-examination

Q. (By Mr. Roll) Mr. Wyatt, if—

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IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT
OF COLUMBIA CIRCUIT

No. 19,842

WESTERN STATES REGIONAL COUNCIL No. 3, INTERNATIONAL
WOODWORKERS OF AMERICA, AFL-CIO

and

WESTERN COUNCIL OF LUMBER AND SAWMILL WORKERS,
AFL-CIO, *Petitioners*

v.

NATIONAL LABOR RELATIONS BOARD, *Respondent*

and

WEYERHAEUSER COMPANY, CROWN ZELLERBACH CORPORATION,
RAYONIER INCORPORATED, INTERNATIONAL PAPER COMPANY
AND ASSOCIATION, *Intervenors*

PREHEARING CONFERENCE STIPULATION

Pursuant to Rule 38(k) of the Rules of this Court, the parties, subject to the Court's approval, hereby stipulate and agree as follows with respect to the issues and the use of a joint appendix:

I. Issue Presented

The parties have conferred and agreed that the issue is as follows:

Whether the Board properly concluded upon substantial evidence on the record as a whole that intervenors did not violate Section 8(a)(3) and (1) of the National Labor Relations Act by the shutdown of plants in the circumstances found by the Board in this case.

II. The Joint Appendix

1. The relevant portions of the record in this case shall be reduced to a joint appendix comprising the materials the parties designate, and each party will pay the printer

directly for its share of the printing cost and mailing expenses.

2. The petitioner shall have the responsibility for printing the joint appendix and filing it with the Court.

3. Seventy-five (75) copies of the appendix shall be printed under this stipulation; the required number of copies to be filed with the Court, three (3) copies to be served on counsel for each of the parties, and the remaining copies to remain in the custody of the Board to be used without additional charge by whichever party might seek Supreme Court review of the Court of Appeals' decision in this case.

4. Any party and the Court, in the briefs and at and following the argument in the case, may refer to any portion of the original transcript herein which has not been printed to the same extent and effect as if such portions of the transcript had been printed or otherwise reproduced, it being understood that any portions of the record thus referred to will be printed in a supplemental joint appendix if the Court directs the same to be printed.

MARCEL MALLET-PREVOST,
Assistant General Counsel,
National Labor Relations Board.

Dated at Washington, D.C., this 27th day of January, 1966.

JOHN SILARD,
Counsel for Petitioners.

Dated at — this 28th day of January, 1966.

GUY FARMER,
Counsel for Intervenors.

CHARLES F. PRAEL,
Counsel for Intervenors.

Dated at — this 31st day of January, 1966.

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ON PETITION TO REVIEW AN ORDER OF THE NATIONAL LABOR RELATIONS
BOARD

BRIEF FOR PETITIONERS

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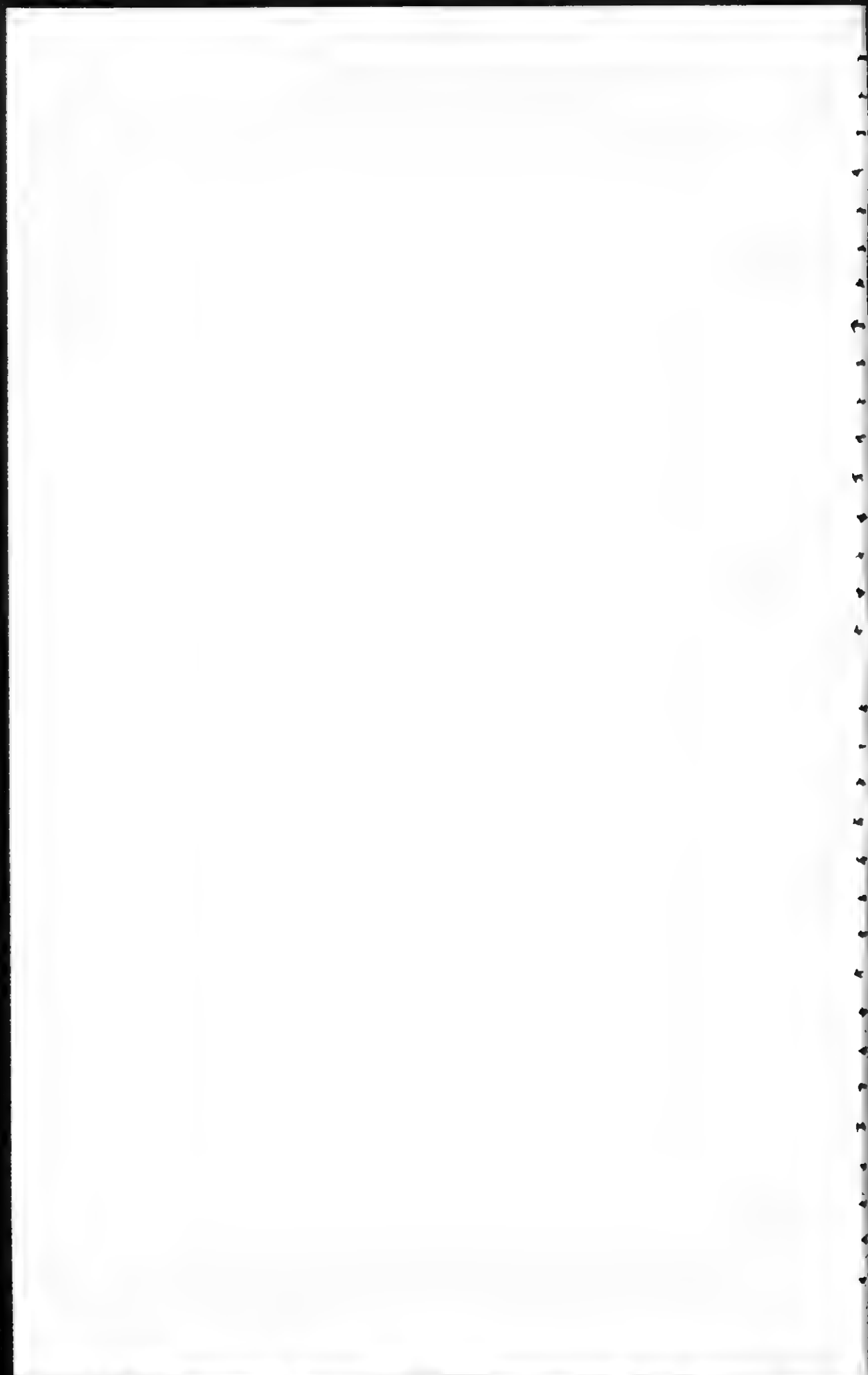
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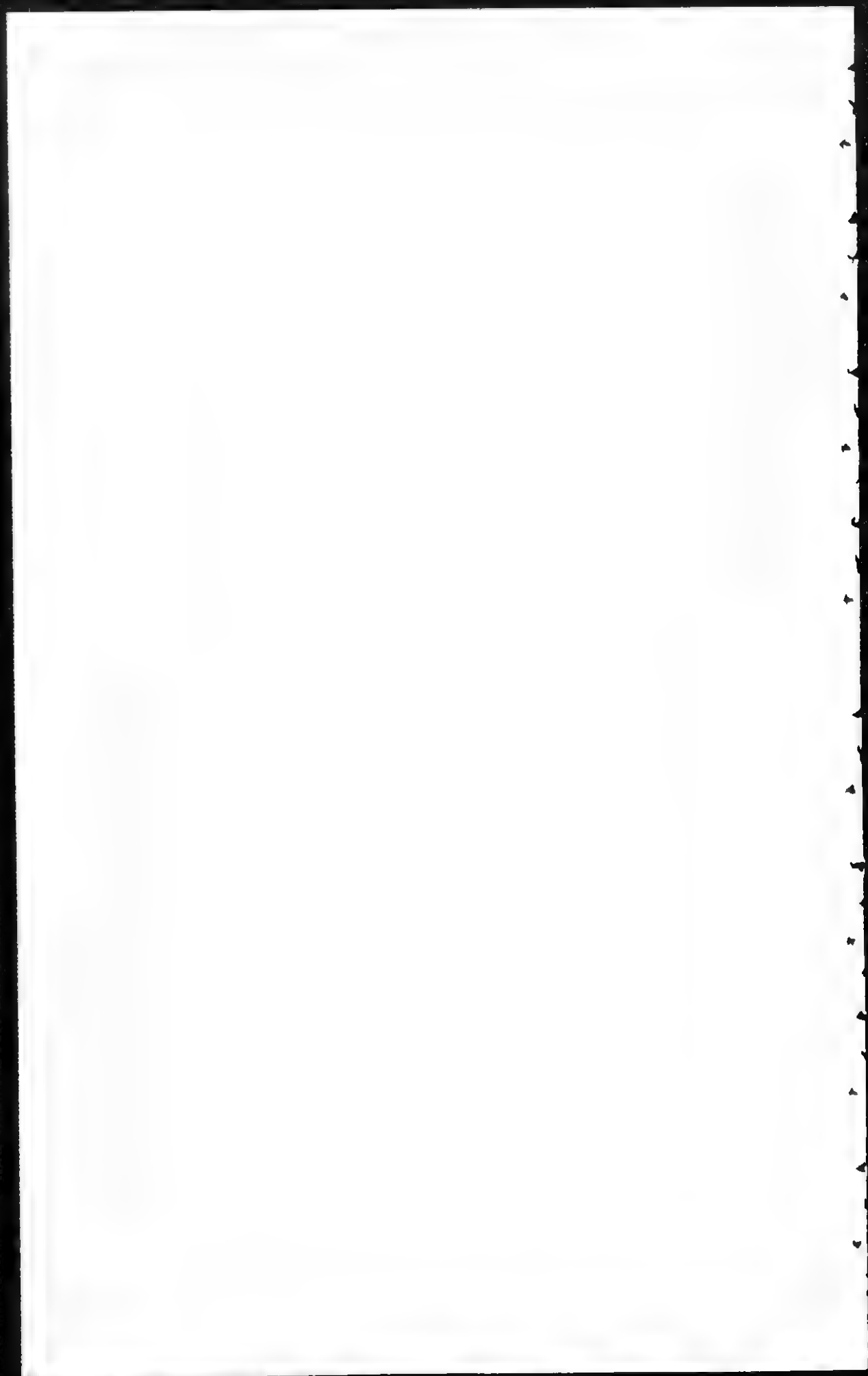
FILED MAY 16 1966

Wm. J. Paulson



STATEMENT OF QUESTION PRESENTED

The parties have agreed in their prehearing conference stipulation that the issue is "Whether the Board properly concluded upon substantial evidence on the record as a whole that intervenors did not violate Section 8(a)(3) and (1) of the National Labor Relations Act by the shutdown of plants in the circumstances found by the Board in this case."



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ON PETITION TO REVIEW AN ORDER OF THE NATIONAL LABOR RELATIONS
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BRIEF FOR PETITIONERS

Jurisdictional Statement

This is a petition to review a Decision and Order of the NLRB in a case originating from charges by the petitioning unions, IWA and LSW. Therein, the Board has found four major lumber companies and their Association—intervenors in this Court—not guilty of violating the National Labor Relations Act. This Court's jurisdiction rests upon Section 10(f) of the National Labor Relations Act, 29 U.S.C. § 160(f).

Statement of the Case

This case arises from a 1963 concerted lockout of unionized employees by six leading producers of the Western lumber industry. On the present review of the Labor Board's 1965 Decision and Order holding the lockout to have been lawful, the petitioning unions seek only a remand for Board reconsideration. The limited nature of our present request for review arises from the sharply curtailed and erroneous premise of the Board's opinion, which fails to adjudicate the determinative issues litigated before and presented to the Board by all the parties.

Under the Supreme Court's leading *Buffalo Linen* ruling (*NLRB v. Truck Drivers*, 353 U.S. 87; see also *NLRB v. Brown*, 380 U.S. 278) a concerted employers' lockout in response to a strike against individual employers is permissible if intended to protect the integrity of an existing multi-employer bargaining unit. The indicia of such a unit, as distinguished from mere simultaneous group bargaining by individual employers, are "binding" delegation of employer bargaining power to a single representative and union agreement to bargain on a multi-employer unit basis. *The Kroger Co.*, 148 NLRB 569; *The Great Atlantic & Pacific Tea Co.*, 145 NLRB 361, enforced in relevant part 340 F.2d 690 (C.A. 2, 1965). Given those two ingredients, there exists an established multi-employer bargaining relationship for the protection of whose "unity" the employers may in concert effect a lockout in unionized plants if the union engages in a strike against an individual member.

In 1963, six major lumber producers created an "Association" to bargain with IWA and LSW, and invoked an extensive lockout following the strike against two Association employers.

In this case, the trial before the Board was addressed to the two focal questions of "binding" delegation by the employers of bargaining power to the new Association and

alleged union acceptance thereof as a multi-employer unit. Both issues were resolved in favor of the employers in the Trial Examiner's Intermediate Report (J.A. 6). But, on the appeal to the Board on these two focal questions, the Board saw fit to decide the case on an entirely different ground never pleaded or proved by the employers in attempted justification of their lockout during the extensive Board trial. Purporting to apply the Supreme Court's recent decision in *American Ship Building Co. v. NLRB*, 380 U.S. 300, the Board holds that since the employers' lockout followed a bargaining "impasse" between the parties concerning the substantive terms of new collective agreements, the lockout was *ipso facto* lawful (J.A. 1-5). Bypassing the employers' justification of their lockout as one solely intended to defend the integrity of their claimed multi-employer unit in response to a union strike, the Board specifically declines to adjudicate the two salient issues concerning alleged employer binding delegation and union acceptance of a multi-employer unit bargaining base (J.A. 4, n. 5).

In point I of the Argument (p. 32, *infra*), we demonstrate that this case must be remanded to the Board for a new decision on these fundamental unresolved issues. A concerted solidarity lockout not in fact undertaken by employers because of any bargaining impasse is not validated merely because a bargaining impasse may have existed. Accordingly, this Court's present review encompasses only the question whether a concerted lockout may be legally approved by the Board on the ground of a bargaining impasse which did not provoke and was not the cause of the lockout. Nevertheless, we review for the Court's information in Point II of the Argument the principal unresolved questions which the Board should adjudicate upon a remand (p. 40, *infra*); and we set forth in this statement the salient facts proved thereon in the Board proceeding. They highlight the Board's surprising disposition of the

case on a ground the employers themselves never pleaded or proved in the Board trial to justify their concerted lock-out action.¹

1. *Past Collective Bargaining History* (see *infra*, Appendix, pp. 1a-3a)

Collective bargaining by IWA and LSW with the Western lumber employers has historically been in separate, single-employer or single-plant bargaining units (J.A. 353). Employers and unions have alternately joined and withdrawn at will from loose employer associations and union councils, which have acted as non-exclusive bargaining agents for their respective principals. These associations and councils have concluded tentative agreements transmitted to their principals as recommendations, and the individual employers and local unions have reserved unto themselves the absolute right to accept or reject any association-council recommendations (J.A. 15). Single employer separate plant units as established by Labor Board certifications were thus adhered to by mutual agreement and practice of employers and unions in the acceptance and conclusion of each new collective bargaining contract.²

¹ The Board's truncated resolution of this case having avoided the two principal questions litigated by the parties, and requiring a remand for further Board consideration, in the text we merely highlight the facts bearing on these salient unresolved issues. However, for the information of the Court, we have included as an Appendix to this brief, *infra*, pp. 1a to 33a, the factual submission from the Brief to the Board by its General Counsel, which includes a chronological recitation of all the relevant events surrounding the 1963 Big Six lockout.

² As explained in the Board hearings by the employers' own witness Wyatt:

"The list of independents changed from year to year and bargaining to bargaining, as did the character and structure of the various associations. The common denominator of the various associations was probably the fact that they were never organized [on a] fully-bound basis. The result of bargaining through these associations was typically a recommendation . . . to their members . . . as opposed to being bound to a common result if that result was unsatisfactory to any member . . . [T]his has been the case in the industry . . . right up until 1963" (J.A. 98).

2. Formation of the Big Six Association (see *infra*, Appendix, pp. 3a-8a)

The 1963 lumber industry lockout was born from the imagination and energy of Fred Lowry Wyatt, a top official and presently Vice President of Weyerhaeuser Company (J.A. 95), which is a leader in the Western lumber industry. In 1962 Wyatt concerned himself with the forthcoming 1963 contract reopenings for Weyerhaeuser and other leading lumber producers with the two major unions representing their employees—IWA and LSW. He correctly anticipated a major wage increase demand by the unions; he feared that by resort to strikes against individual producers—which had proved effective before (J.A. 14-15)—the unions might achieve successive employer acquiescences in their demands. Wyatt also resolved to advance Weyerhaeuser's major objective of a continuous 7-day operation of plants without weekend overtime, in lieu of the prevailing 5-day week agreements (J.A. 131; 176; 181). Wyatt hoped to establish an industry-wide 7-day "pattern" (J.A. 155-157) which would "hold the product cost in line and make the product more competitive with substitute materials in the market place" (J.A. 177).³

In response to these considerations (see J.A. 104-111),

³ Wyatt has described the competition-elimination purpose of his scheme, as it was explained by him in 1963 to the competing manufacturers, in the following terms (J.A. 107; see also *infra*, n. 11, p. 51.):

"I felt that the competitive situation of most of our products was becoming more and more difficult to compete advantageously, costs of labor had been increasing, costs of other things had been increasing, prices in the market place had not matched there. This [7-day week] was going to be needed to improve the productivity of our operations. If we did that it was going to have an impact upon employees and was going to require broad discussions with the international unions and agreements with the international unions with representatives of employees as to how these problems could be solved and how we could make the adjustments and agreements and come to grips with what we all saw and this is what I was telling these other people, that this is the way I saw it and the format that was needed was a substantial group of major employers who had reasonably common interests in the long-range future of the industry . . ."

Wyatt set about soliciting other major lumber producers to join an association seeking to hold the line for "a common bargaining result" (J.A. 115) and bound to a concerted lockout in the event of a union strike against any employer. Beginning in the latter part of 1962 (J.A. 112), Wyatt met repeatedly with representatives of major producers in the industry to persuade them to accept his plan. In a legal memorandum distributed to the proposed members, it was emphasized that an employer association might secure the right to a lockout by all in case of a strike against any. The memorandum, presented to the employers on December 12, 1962 (G.C. 49, p. 1)*, focussed significantly upon the lockout as principal objective of a "*strike against all agreement*":

"The subcommittee's specific assignment was to study, analyze and report on the possibilities for a formal organization or association of the participants for bargaining collectively with the IWA and LSW, specifically being bound together to the extent that a strike against one participant would be a strike against all participants. Participants have expressed concern with regard to whether, or within what limitations, the law, as interpreted by the Board and Courts, would permit 'strike against all' action. Presumably, some participants, at least, desire clarification of the status of the law prior to making the decision whether it wishes to associate itself with other participants in a 'strike against all' agreement."

Wyatt's persistent negotiations with the other leading manufacturers proved successful. Early in 1963 six major producers decided to form an association, and the formal Association Agreement was signed between April 15 and

* References herein to "G.C." and "R." denote Exhibits of the General Counsel or of the Respondents before the Board, copies of which have been filed with this Court in lieu of extensive printing in the Joint Appendix.

22 by Weyerhaeuser Co., Crown Zellerbach Corp., Rayonier Inc., International Paper Co., U.S. Plywood Co., and St. Regis Paper Co. (J.A. 22). The agreement bound each employer to a lockout of unionized workers in the event of a strike against any employer (R. 206).

The provisions of the Association Agreement (R. 206), when compared with earlier drafts circulated among the companies (R. 243, R. 247, R. 265, R. 268, R. 269), derogate from the subsequent claims of employer solidarity. Thus, the draft provision (Par. (5) and (6)) for a majority vote among the six employers governing as the decision of the Association became a 75% rule by the time of the final version (Tr. 891). The original draft stipulation (Para. (5)) that an Association decision on any issue "shall be binding on all the companies" was removed. Finally, the draft provision (Para. (6)) that "the companies shall bargain as a unit" was excised, and "voluntary" was inserted in the designation of the organization in the first paragraph of the Association Agreement concluded in April of 1963.

These illuminating alterations and omissions in the drafts of the employers' agreement first came to light in the Board proceedings. The doubts they raise as to the nature of the employers' "Association" were not cured but were exacerbated in the weeks after the Agreement was concluded, by the representations made in separate meetings between the "Big Six" and each of the unions. In these sessions and at all times to the eve of the June 7 lockout, the text of the Association Agreement was concealed (J.A. 370, 394), and material elements of the Association's purpose, its lockout pledge (see J.A. 420), and its structure (J.A. 71), were consciously withheld from the unions for fear that disclosure would preclude the unions' acquiescence in negotiating with the new Association.

3. *The Pre-Lockout Meetings* (see *infra*, Appendix, pp. 12a-25a)

The first Big Six meeting with the IWA was held on April 24, 1963, and the first meeting with the LSW commenced on May 9, 1963. Each began with some discussion of the new bargaining format. In the individual notices sent by each of the six employers to the unions requesting commencement of negotiations (J.A. 22-24),⁴ that format had been calculatedly left vague. These separate notices re-

⁴ "This is to advise you that the undersigned Company is a member of a voluntary multi-employer Association, herein called the "Association" comprised of the following named employer Companies in the wood products industry:

Crown Zellerbach Corporation
International Paper Company, Long-Bell Div.
Rayonier, Inc.
St. Regis Paper Company
United States Plywood Corporation
Weyerhaeuser Company

"We hereby notify you that this Company hereby delegates to the Association authority to bargain collectively on and with respect to any revisions of the existing agreements between your Union and this Company at its operations named on the attached list, pertaining to all matters which involve the wages, hours or other conditions of employment of employees of this Company represented by your Union at such locations, other than the subjects of (1) pensions, (2) union security, (3) health and welfare, and (4) those issues which have been customarily subject to local negotiations.

"The subjects of pensions, union security, health and welfare, and local issues and all matters pertaining thereto have been and are hereby specifically reserved and excepted from the delegation mentioned above, and if properly opened for bargaining, shall be subject to collective bargaining negotiations between your Union and this Company, separate and apart from any collective bargaining conducted between your Union and the Association in accordance with the delegation aforesaid.

"We further notify you that this Company through the Association desires to change the terms of the said existing agreements with respect to (i) hours of labor, (ii) overtime, and (iii) grievance procedure, including, without limitation all matters relevant thereto.

"The Association and this Company will be prepared to meet with you for the purpose indicated at mutually convenient times and places. Please

requested the union to meet with "the Association and this Company", made no reference to any contemplated multi-employer bargaining unit or to employer intention to be bound by any Association settlement, and suppressed the existence of the Association Agreement among the Big Six and its clause binding the six employers to a concerted solidarity lockout (see J.A. 39). These facts, later brought forth in the Board proceeding to prove employer "solidarity", remained purposely obscured by the employer representations to the unions in the meetings preceding the June lockout.

i. *IWA Meetings* (see *infra*, Appendix, pp. 12a-17a). In the opening meeting with the IWA on April 24, Association spokesman Wyatt and the participating representatives of the six employers volunteered absolutely no information to the union about the nature of the new Association. Employer desire for a multi-employer unit was never stated (J.A. 497-498). For all that had been disclosed and made to appear (J.A. 498-499), the Association was no different from any of the previous loose employer associations wholly lacking multi-employer binding authority—including the most recent Timber Operators' Council whose negotiations with the unions in 1961 had ended when individual employers withdrew therefrom and concluded separate agreements in separate bargaining. The *only* notice to IWA that any more was intended by the new

let us know your desires in such regard. The secretary of the Association bargaining committee is:

Mr. E. M. Boddy
Crown Zellerbach Corporation
1100 Public Service Building
Portland 4, Oregon

"All notices and communications from your negotiating committee to the Association may appropriately be directed to Mr. Boddy. Notices and communications intended individually to this Company may be forwarded to the undersigned."

Association was the verbal statement by Wyatt to IWA's Nelson at the May 9 meeting that the Association was prepared "to reach a binding agreement" (J.A. 27).

This single verbal representation by Wyatt of "binding" power was *immediately visibly impugned* when IWA's Nelson challenged Wyatt's claim by pointing out that Association member U.S. Plywood had independently opened for individual bargaining the central issue of hours of work and overtime (J.A. 27-28). This was manifestly contrary to the claim that there had been a "binding" delegation by each employer of authority to the Association to settle all wage-hours matters. Thereupon, instead of resolving this critical and immediate challenge to the claim of Association authority (see J.A. 463), the subsequent events manifested to the IWA precisely the absence of such authority (J.A. 546). For in the agonized Big Six discussions which took place during the two days following the April 24 opening, not only did U.S. Plywood adamantly adhere to its independent bargaining insistence (J.A. 30-32), but in further contradiction of the claim of "binding" delegation Wyatt revealed to IWA that U.S. Plywood was threatening to *leave* the group and that he did not know whether he could hold the Association together (J.A. 32, n. 8; 80).

In the three days of meetings which commenced on April 24, the employers thus failed to resolve the question of Association authority. With Wyatt unable to assure IWA that it would not have to bargain a wage-hour settlement with the Association and then all over again with each individual employer, IWA proposed that format and authority questions be temporarily "set aside" and that the parties address themselves to substantive issues (J.A. 33; 187-188). Discussion of substantive contract terms thereupon commenced. Thus matters remained to the time of the June lockout, with U. S. Plywood steadfast upon

bargaining separately on hours and overtime and the single verbal claim by Wyatt of "binding" authority continuing impugned rather than in any way substantiated.

There were six meetings between IWA and the Big Six Association between April 29 and June 4. The question of absence of Association authority to act as a binding agent having been set aside at the meeting of April 26th by agreement of both IWA and the Big Six, the subject was never again mentioned in these sessions. No agreements were reached either on contract matters or on Association authority.

ii. *LSW Meetings* (see *infra*, Appendix, pp. 17a-23a). The first Big Six meeting with the LSW, on May 9, 1963, had a different character from the opening meeting with the IWA. LSW was desirous of forming a full multi-employer bargaining basis in the industry. It hoped that the new Association would conclude a single master agreement for all six employers, and other employers as well, giving LSW firm protection against rival-union membership raids at individual companies and locations.

LSW representative Johnston started the May 9 meeting with extensive questioning of Wyatt about the new Association. Aware of LSW's affirmative interest in the protections of a regularized multi-employer unit (see J.A. 19), Wyatt revealed a number of points in this discussion which he never made manifest to the IWA. He admitted that the employers contemplated concerted lockout action in the event of a strike, without revealing they had formally bound themselves to do so (J.A. 579; 596). He asserted that there was "one person authorized to sign for the Association" (J.A. 302). He conceded the existence of an Association Agreement, though failing to produce it for LSW's examination. As the Board's Trial Examiner subsequently found (J.A. 71), Wyatt was zealous to preclude knowledge

by LSW that a 75% or individual employer veto rule rather than majority rule governed the Association's procedure for reaching a decision. Wyatt feared that the union would decline to commence negotiations with the Association if aware of veto or near veto power by the more intransigent members of the Big Six.

While stimulating LSW's interest in commencing negotiations with the new Association by intimations of forming a true multi-employer bargaining base in the industry (see J.A. 41-42), Wyatt steadfastly declined LSW's requested guarantees of the protections of full industry-wide bargaining (J.A. 42-47). He refused LSW's demands for a master agreement resulting from the negotiations (J.A. 299), for the inclusion in the Association of excluded units east of the Cascades (J.A. 296-297), and for incorporation of three excluded major bargaining subjects—union security, pensions, and health and welfare (J.A. 579-580). As in the case of the first Big Six-IWA session, the discussions with LSW thus failed to produce a meeting of the minds on the nature and scope of the new bargaining format. Accordingly, on May 9 the parties commenced discussions on substantive matters, agreeing to leave the format issues in abeyance for later resolution (J.A. 583). This was after LSW expressly stated (J.A. 429; 579; 41) that it was not recognizing the Big Six Association as bargaining representative until and unless the three major issues were satisfactorily resolved—commitment to an overall master agreement resulting from the discussions, inclusion of excluded units east of the Cascades, and the incorporation of the three major excluded bargaining subjects. As in the case of IWA, subsequent discussions on wage and hours matters produced no agreement between the parties; nor did they reach any meeting of minds on the issues of Association scope and authority (J.A. 589; 592-593; 48-50).

4. *The Lockout* (see *infra*, Appendix, pp. 23a-33a).

The principal contracts between the unions and the six employers expired on June 1, 1963 (J.A. 19). On June 3 and 4, meetings were held between each union and the Big Six, but no agreements were reached either on substantive issues or on the Association format and authority questions which had arisen at the first meeting with each union. On June 4, both unions announced that strikes would commence against two employers—St. Regis and U. S. Plywood—and such strikes did begin on the following day. In a perfunctory meeting among the Big Six on June 4, the concerted lockout was formally activated in accordance with the requirement of the Association Agreement; on June 7 the remaining four employers in the Association locked out all employees represented by IWA or LSW for the announced reason “to protect the interests of our group against this selective strike . . .” (R. 28; J.A. 54).

The lockout lasted for approximately two months, during which meetings between the employers and the unions produced no tangible progress toward a settlement. On August 7, 1963, without any understandings or promises having been reached with either union, and while the strike against St. Regis and U. S. Plywood still continued (J.A. 602), the four companies ended their lockout (J.A. 265; 64-65). In renewed negotiations commencing on August 12, 1963, the employers offered major wage concessions, omitting their principal earlier demand for 7-day operations without weekend overtime (J.A. 66). After further negotiations, a general settlement was reached on August 13, 1963, new contracts were concluded with each employer, and the strikes against St. Regis and U. S. Plywood were ended thereafter (J.A. 602).

Meanwhile, in June, charges asserting the unlawfulness of the concerted lockout had been filed by the unions with

the National Labor Relations Board. Following issuance of a formal Complaint by the Board's General Counsel and Answer by the Association, the case was referred for hearing to Board Examiner Hemingway. The issue for trial was framed by the employers' Answer alleging that their lockout was for the "*sole purpose*" of "preserving the multi-employer bargaining basis from the disintegration threatened" by the June 5 strikes against two of the six employers.

5. Trial Examiner's Hearing and Decision.

The Labor Board's formal hearing commenced before the Trial Examiner on April 14, 1964 and lasted for some six weeks. The trial transcript exceeds 2,000 pages, and hundreds of exhibits were offered and made part of the record. The trial centered on the two focal issues governing the legitimacy of a multi-employer "solidarity" lockout: (1) whether the employer group had the necessary authority to constitute a binding bargaining unit rather than a mere voluntary association of individual employers for simultaneous group bargaining, and (2) whether the unions had by acquiescence given life to a new multi-employer unit bargaining basis, thus permitting the employers to invoke a concerted lockout for protection of that unit's solidarity. On April 5, 1965, the Trial Examiner issued a lengthy Intermediate Report (J.A. 6-93), ruling for the employers on both counts and accordingly recommending that the Board find the lockout not in violation of the National Labor Relations Act.

6. The Points Briefed to the Board.

The two principal questions briefed to the Board by the unions, the Board's General Counsel, and the Association, were those upon which the trial had concentrated: employer solidarity and union acquiescence. This Court will best appreciate that these were in fact the focal points

briefed to the Board, and discern the nature of the issues thus framed for disposition, by a perusal of the following portion of the "General Counsel's Brief in Support of Exceptions" (filed July 1, 1965; pp. 32-45:

"A. THE ABSENCE OF SOLIDARITY.

"The respondent companies locked out their employees, so they claimed, 'to protect their group solidarity against selective strikes.' It is axiomatic that, before the members of a multiemployer bargaining entity can lawfully lock out for that reason, the entity must have solidarity to protect. More specifically, it is essential for its members to have committed themselves 'to be bound in collective bargaining by group rather than individual action.' *Kroger Co.*, 148 NLRB, No. 69, at 6 (1964).

"The blueprint for the association—that is, the legal analysis presented to the principals in December of 1962 (G.C. 49)—with its obsessive, page-after-page dedication to finding a 'basis for treating a strike against one as a strike against all,' leaves no doubt of the six companies' purpose in structuring the association. And, as might be expected from a purpose so self-seeking and narrow, the record reveals that, rather than earn their lockout privileges by a good faith commitment to the responsibilities of association bargaining, the six companies were intent upon achieving their purpose by means of a sticks-and-straw facade. The record discloses, first, an utter unwillingness by the companies 'to be bound in collective bargaining by group rather than individual action,' *Kroger Co.*, *supra*, notwithstanding. It discloses, secondly, an ill-conceived attempt to dupe IWA and LSW into believing that the companies were bargaining pursuant to such a commitment.

"Thus, in the opening bargaining sessions with both IWA and LSW, Wyatt unreservedly proclaimed that the association could bind its members to a common bargaining

result. From those initial claims, Wyatt shortly began a piecemeal retrenchment as the union spokesmen, by penetrating and relentless inquiry, chipped away at the facade. Ultimately, by word and deed, the association was exposed as a sham purposely and totally lacking in solidarity. . .

"1. In the opening bargaining sessions with each union, Wyatt proclaimed that the companies had vested binding authority in the association. Yet, but a few days before, the companies had deleted from a rough draft (R. 11) of the standard letters notifying the unions of their delegations to the new association the following previously proposed language:

Each company has agreed to be bound by the results of these negotiations on all subjects negotiated by the Group. . . .

A comparison of the rough and final drafts of those letters, and a comparison of the rough and final drafts of the association agreement discloses, moreover, that concurrent with this delegation, the word 'voluntary' as descriptive of the association was inserted in both the letters and the agreement.

"By any legal definition, 'voluntary' means, in effect, 'not binding'. The replacement in the letters of the deleted language by 'voluntary' and the last-draft insertion in the association agreement of 'voluntary', coupled with the totality of the companies' 1963 bargaining conduct and U.S. Plywood's balkiness at the April 12 meeting in which the letters and agreement purportedly were finalized, compels the conclusion that the companies' characterization of the association as 'voluntary' was designed to impart to the unions some sort of constructive but not actual knowledge of the association's true nature. . . .

"2. The companies unilaterally excluded from association bargaining at least as many major issues as they dele-

gated, and also excluded several of their operations. As observed by LSW Spokesman Johnston in the opening LSW-association session, this exclusionary action, together with Wyatt's statement to LSW that the association was powerless to exceed the exclusions, squarely contradicted Wyatt's claims that the association could undertake binding action. Concerning the excluded issues and operations, it necessarily meant that none of the members had committed itself to binding association action absent its specific consent, the association agreement notwithstanding.

"3. At the opening bargaining sessions and thereafter, Wyatt failed to tender to IWA, and refused to tender to LSW, copies of the organic agreement from which the association's authority purportedly derived. A possible explanation of this nonfeasance—suggested by the undated signatures of St. Regis and U.S. Plywood on the document and by the nonconformist tendencies of those companies throughout 1963 negotiations—is that the agreement was not executed by all six companies until some later time. Another possible explanation is that the document was as yet nonexistent, signed or unsigned.

"The Trial Examiner allows for the probability that, at least as to LSW, a reason for withholding the agreement was to elicit by deception a commitment to association bargaining (TXD 41, L. 28-31):

Wyatt . . . might have believed it more in the interest of the aims of the Association—to induce bargaining by LSW—if disclosure of the 75 percent rule were not made. . . .

The Trial Examiner is no doubt correct. In practical effect, the companies had assumed an impasse posture even before bargaining began by virtue of the provision in their agreement conditioning association action on the concurrence of 75 percent—i.e., five-sixths—of their number. It

is unthinkable that the unions would knowingly submit to so unconstructive an arrangement. . . .

"4. On April 24, in answer to Nelson's query whether, considering the peculiar openings made by U.S. Plywood and St. Regis, an association settlement would be binding on those companies, Wyatt conceded that (a) he 'was not able at that time to give an answer' concerning U.S. Plywood, and (b) he could not speak for St. Regis, but that St. Regis would give IWA a 'direct reply'.

"So, even as to delegated issues, it was at once doubtful that the companies had committed themselves to be bound by group rather than individual action.

"5. On April 25, Wyatt admitted to IWA that hasty formation of the association had resulted in some conflicts in authority between the association and its members; then promised that there would be no such conflicts in future years' bargaining. This promise was periodically repeated.

"The 'hasty formation' admission was, as Nelson noted at the time, a direct contradiction of Wyatt's earlier unqualified claims that the association could undertake binding action. The 'future years' promises were obviously calculated to delude, in view of the disclosure in the Weyerhaeuser intracompany memorandum of May 6 that those signatory to the association's organic agreement had obliged themselves only for 1963 negotiations. Besides giving the lie to Wyatt's promises, the intracompany memorandum, by exposing the association as a one-shot deal, belied Wyatt's claims that the association was intended to cure the long-range problems of the industry.

"6. Also on April 25, still more of the association's facade of solidarity crumbled with Wyatt's admission, when he finally met Nelson's questions about the U.S. Plywood openers, that the association could not bind all of U.S. Plywood's operations on the three issues generally delegated by the companies to the association. As a U.S. Plywood official explained, U.S. Plywood was insisting upon

negotiating the hours of labor issue at the local plant level regardless of having adopted the standard letter expressing its desire to bargain that issue at the association level.

"This demonstrated still more conclusively the association's inability to undertake action binding upon any company without its consent, whatever the collective will of the other companies.

"7. The association's lack of solidarity was yet more dramatically shown during the April 26 recess conversation between Wyatt and Nelson, when Wyatt, revealing that he 'did not know if U.S. Plywood was going to stay in or get out,' beseeched Nelson to 'find a way to go along' with the association's lack of authority over U.S. Plywood.

"The association, thus exposed as TOC had been in 1961, was powerless even to prevent its midnegotiation disintegration, much less to bind its members to the eventual outcome of negotiations.

"8. But most revealing of the companies' refusal to be bound by group rather than individual action, was Wyatt's candid admission to Johnston and Hartley on June 3—of which Wyatt twice testified in the California Unemployment Compensation hearing—that 'one member, the way the association was constituted, could prevent any action on the part of the association'; that is, *except for lockout action*.

"If not the antithesis of lockout legalizing solidarity, this scheme was a gross perversion of that concept. The companies were committed to group action in just one particular: if one was struck, the rest had to lock out. Otherwise, far from being committed to group action, they were committed as a group to the negative action of a single dissenter. . . .

"9. The utter lack of willingness by the companies to be bound for better or worse by association bargaining was again vividly demonstrated June 27, with Wyatt's disclosure, amplified by the 'black and gray areas' metaphor of

U.S. Plywood's Leeper, that the companies 'only want to change contracts that have lesser provisions than we are now asking.'

"10. Finally, the respondent companies terminated their lockouts before an end to the strikes could be anticipated. Recalling the companies' explanations that the lockouts were necessary 'to protect their group solidarity against selective strikes,' the termination of the lockouts with the strikes yet in full effect completed the cycle—deception, retrenchment, and ultimate total exposure as an entity purposely and completely without solidarity. . . .

"B. THE ABSENCE OF UNION AGREEMENT TO BARGAIN ON THE BASIS OF A NEW MULTIEMPLOYER UNIT

"The Act ensures the right of unions to continue bargaining on the basis of preexisting appropriate single employer units. Therefore, even assuming the unassumable—that the association possessed the requisite internal solidarity—the lockouts cannot be justified absent a showing that, before their occurrence, IWA and LSW had agreed to bargain other than on the preexisting single-plant and single-company bases.

"The right of unions to perpetuate preexisting single-employer units is such that an employer proposal to redefine a unit in multiemployer terms can be ignored as dealing with a nonmandatory subject of bargaining. And, like any other right under the Act, the right to continue bargaining on the preexisting basis is not waived unless union agreement to bargain in a different unit

. . . appears in '*clear and unmistakable*' language, either contained in the contract itself or expressed at the bargaining table before the contract was signed.
[Emphasis added]

Perkins Machine Co., 141 NLRB 98, 102 (1963). See also *Timken Roller Bearing Co. v. N.L.R.B.*, 54 LRRM 2785,

2788-89 (6th Cir. 1963); *The Great Atlantic & Pacific Tea Co.*, 145 NLRB No. 39, at 7, f.n. 7 (1963), enfd. 58 LRRM 2232 (2d Cir. 1965).

"That neither IWA nor LSW waived by agreement in 'clear and unmistakable language' its right to continue bargaining on the established single-plant and single-company bases is obvious from the most casual review of the record. The Trial Examiner so admits (TXD 48, L. 37-39):

. . . the unions . . . *did not expressly state* that they were agreeing to the establishment of the multiemployer bargaining unit tendered by the Association. [Emphasis added.]

But, disregarding the clear and unmistakable language doctrine he launches his analysis on the erroneous legal premise that an agreement can be inferred absent clear and unmistakable evidence of its existence. See TXD 48, L. 35-42.

"Indulging this faulty premise, the Trial Examiner infers that IWA agreed to recognize the association as a multiemployer bargaining unit on April 26, coincident with Nelson's suggestion that the problem of the association's bargaining authority be set aside until later in negotiations. And, in reliance upon the minutes of LSW Recording Secretary Prusia and Hartley's remark about having got rid of the technicalities, he infers that LSW so agreed in 'the first of the meeting on May 9.'

"Even accepting as sound the Trial Examiner's plainly unsound premise that the requisite agreement need not be clear and unmistakable, the events he cites do not support an inference of agreement by either IWA or LSW. In the first place, because of Wyatt's unwillingness to furnish copies of the association agreement and general evasiveness, neither union had information of the association's workings sufficient to ground such an agreement. The calculated disparity in knowledge about the association,

between the unions and the companies, precluded mutual assent. The Trial Examiner admits as much, figuring that Wyatt withheld from LSW the association agreement, and resultant disclosure of the 75 percent rule, the better to induce LSW acceptance of the proposed association unit. Yet, unconcerned that inducement by nondisclosure can be as deceitful as that by misdisclosure—and that Wyatt resorted to both—the Trial Examiner sees nothing wrong with a unit agreement induced in this fashion. He comments (TXD 40, L. 16-18):

Collective bargaining frequently takes place in a poker game atmosphere, with some bluff, with high cards kept strictly secret and with calculated bidding.

“The Trial Examiner once more relies on an inapt parallel. Collective bargaining, meant to culminate in mutual assent of legal moment, has disclosure requirements quite different from those in poker:

. . . the obligation to bargain in good faith includes the duty of the employer to furnish to the union relevant data to enable the representative effectually to bargain for the workers.

“Apart from the impossibility, on the information made available to the unions, of mutual assent, Nelson’s suggestion that the problem of association authority be set aside was not indicative of IWA agreement to recognize the association as a multiemployer bargaining unit. It instead signaled his realization that the association, like TOC, was not capable of being so recognized. A practical man, Nelson simply proposed that they not further belabor the obvious, but move on to other matters. As indicated earlier, the context of the situation and Nelson’s very use of the term ‘set aside,’ or words to that effect, implied anything but IWA acceptance of the association as a multiemployer unit.

"... the Trial Examiner, in finding that LSW on May 9 agreed to a multiemployer bargaining format, slights LSW's unvarying pattern of conduct thereafter. The problem of geographic exclusions and unit protection was central to both the May 10 and 22 meetings; and, in the June 3 meeting before the mediator, Johnston repeated that LSW recognition of the association as a unit depended on the companies' agreeing to a master contract providing LSW with unit protection ...

"Beyond dispute, then, the Trial Examiner's findings that IWA on April 26 and LSW on May 9 accepted the association as a bargaining unit are unfounded, even if the law did not require that such agreements be clearly and unmistakably evident. The bargaining conduct of the two unions is not alone in showing this absence of agreement. Wyatt's own conduct was consistently to the same effect, emphatically so when in August he advanced the ill-fated proposal—'designed to establish the validity of what we were doing and had been doing'—that the memorandum of settlement between the association and the two unions contain this language:

... the union ... and the association (... a multi-employer bargaining group) having agreed to bargain and having bargained collectively. ...

Had there been agreements, implied or otherwise, Wyatt hardly would have seen the need for such an after-the-fact pursuit of salvation. ..."

This, in substance, was the submission of the issues to the Board, which it chose to bypass by its decision premised on a wholly new theory.

7. The Board's Decision

On November 16, 1965, the Board issued its curt opinion (J.A. 1), in which it upholds the Big Six lockout on a totally different justification from that advanced by the employ-

ers at the time of their lockout and litigated by them at the Board trial. Finding that prior to the lockout "all six Employers had reached an impasse with the Unions over certain of the economic items being negotiated" (J.A. 3), the Board purports on that ground to apply the Supreme Court's decision in *American Ship Building Co. v. NLRB*, 380 U.S. 300. Says the Board (J.A. 4):

"Even assuming . . . that the Respondents were mistaken as a matter of law with respect to either the establishment or the recognition of the Association as a multiemployer unit, we find that the principles announced by the Supreme Court in *American Ship Building* and *Brown* apply to the situation where, as here . . . an impasse in negotiations is reached over a mandatory subject of bargaining, and the union strikes only some of the employers. . . ."

Even more surprising than the summary disposition of the case on an "impasse" in bargaining which had never been asserted by the employers as the cause or object of their lockout, is the Board's own demonstration of the critical difference between *American Ship Building* and this case. For the Board itself (J.A. 3) quotes *American Ship Building* as having validated a post-impasse lockout by an employer "for the sole purpose of bringing economic pressure to bear in support of his legitimate bargaining position", and in the same breath the Board concedes (J.A. 4) that in this case the employers "closed their plants for the purpose of preserving the integrity" of their Association against a selective strike.

This manifest disparity in the ultimate purpose and cause of the two lockouts obviously troubled the Board; in an effort to get around the disparity, the Board asserts (J.A. 4) that the lockout was for the purpose of preserving the integrity of the Association "and [also] in furtherance of the bargaining position advanced jointly for

all six employers by the Association." But even if such sleight of hand could possibly bridge the legal gap between an individual "impasse" lockout such as *American Ship Building* and the multi-employer "solidarity" lockout here, the fact is that in thousands of pages of employer evidence there was not a single claim that they locked out because of a bargaining impasse or to further their "bargaining position." On the contrary, as we show hereafter, the companies publicly announced, judicially admitted, and themselves sought to prove, that they locked out pursuant to their prior solidarity-protection pledge "*solely*" in order to preserve the integrity of their Association against selective strikes.

Nor need we belabor the point that the Board has not yet resolved the two underlying questions in this case. The Board expressly states (J.A. 2) that it "finds it unnecessary to pass on the Trial Examiner's factual conclusions that the Association existed, functioned, and was accepted by the Unions as a formal multi-employer bargaining unit." And in a footnote the Board reemphasizes its limited review, noting (J.A. 4, n. 5) that "we do not pass on the correctness of the Trial Examiner's conclusions as to the establishment or recognition of such a [multi-employer] unit."

It is clear that before this Court the Board's decision must stand or fall on its "impasse lockout" premise; if, as seems clear, that premise will not suffice, then there is nothing further for this Court to review until the Board, on remand, has adjudicated the underlying issues upon which necessarily depends the legality of this concerted multi-employer lockout of unionized employees. As we emphasize in the Argument, a concerted "solidarity lockout" unrelated to any economic impasse is not validated by the *American Ship Building* decision which approved a single-employer lockout "for the sole purpose of bringing economic pressure to bear" on a bargaining impasse. Accord-

ingly, we urge in the Argument that this case must be remanded for resolution of the fundamental and determinative issues which were litigated and briefed before the Labor Board.

Statutes Involved

Sections 8(a)(1), 8(a)(3) and 8(a)(5) of the National Labor Relations Act (29 U.S.C. §158) provide, in appropriate part, that "It shall be an unfair labor practice for an employer (1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 157 of this title . . . (3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization . . . (5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of Section 159(a) of this title."

Statement of Points

The Board erred because its validation of the concerted Big Six lockout is wholly unsupported by the irrelevant "impasse" premise upon which it rests. Accordingly, the case should be remanded to the Board for its decision on the unresolved underlying issues of employer solidarity and union acquiescence and concerted lockout legality in the light of federal restraint of trade and boycott prohibitions.

Summary of Argument

I

The Labor Board trial centered on two issues deemed by all parties to govern the legitimacy of this "solidarity" lockout: (1) whether the employer Association had the necessary authority to constitute a "binding" bargaining agent rather than a mere voluntary association of individual employers for simultaneous group bargaining, and (2)

whether the unions had by acquiescence given life to a new multi-employer unit bargaining basis, thus permitting the employers to invoke a concerted lockout for protection of that unit's solidarity.

The Labor Board, ostrich-like, evaded both these determinative questions, as well as underlying anti-trust and labor policy issues. Finding that prior to the lockout "all six Employers had reached an impasse with the Unions over certain of the economic items being negotiated," the Board stretched the Supreme Court's decision in *American Ship Building Co. v. NLRB*, 380 U.S. 300, to a case it could never conceivably have been intended to cover.

The Companies closed their plants following a strike against two Association members, *solely* because of their prior "unity protecting" concerted lockout agreement and any bargaining impasse on contract terms was quite irrelevant and cannot support the Board's validation of the lockout. The employers' repeated admissions and other evidence confirm beyond possibility of dispute the utter irrelevance of any pre-lockout "impasse" on substantive bargaining terms to their invocation of the lockout. If, as is thus clear, the Companies were not prompted to their concerted lockout by bargaining impasse, there is simply no merit to the Board's decision that because an impasse may have existed (as in *American Ship Building*), the employers were automatically privileged to engage in a concerted lockout in support of struck competitors. *American Ship Building*, involving a *single* employer "impasse" lockout has nothing to do with a *concerted* "solidarity" lockout coming *after* but *not because of* a bargaining impasse.

It defies belief that the Supreme Court in *American Ship Building*, validated, *sub silentio*, multi-employer lockouts following an impasse but actually directed only to the solidarity of employers against a selective strike. The Board's blind application of *American Ship Building* to this case obscures the vital difference between a *concerted*

solidarity *lockout* pursuant to a *lockout* pledge among leading industrial competitors, and a *single employer impasse* *lockout* seeking to vindicate an individual economic interest. Since the premise of the Board's decision is wholly irrelevant and erroneous and cannot justify the result it reaches, this case must be remanded to the Board for reconsideration.

II

As we have just seen, this Court's present review encompasses only the question whether a concerted *lockout* may be approved by the Board on the ground of a bargaining *impasse* which did not provoke and was not the cause of the *lockout*. The unions might well terminate their argument at this point. Nevertheless, the Court may desire to remand the case with instructions or questions on the principal issues to be resolved by the Board. For that reason, and to underline the material points which the Board has thus far evaded with its erroneous "*impasse*" decision, we set forth the salient issues which the Board should adjudicate upon a remand of this case.

(i) It is axiomatic that a concerted *lockout* cannot be justified as protecting the "unity" of a multi-employer bargaining unit from selective strikes if there does not in fact exist the "unity" alleged to require the employers' protection. Here the evidence overwhelmingly demonstrates that the multi-employer Association was nothing but a device for simultaneous group negotiations, with individual employer authority reserved in numerous ways, rather than a body with fully delegated, exclusive, and irrevocable power to settle on terms binding its members. There was no legal "unit" to protect by a concerted *lockout*.

(ii) The consistent historical pattern in the Western lumber industry has been one of union bargaining for individual employer units certified by the National Labor

Relations Board; employers have sat in negotiations through loosely joined associations making no pretense of authority to bind any employer. Add to that background the fact that here the unions refused recognition of the new Association, and it becomes incomprehensible that anyone should suggest that the unions acquiesced in or gave *de facto* recognition to a multi-employer bargaining unit simply by discussing economic issues in a few pre-lockout meetings with the companies.

Moreover, the employers deliberately concealed from the unions the material ingredients of their Association—particularly the minority veto power within the Association—because they feared that the unions' knowledge would preclude their acquiescence. This minority veto power—a serious derogation from “binding” delegation of bargaining authority—constitutes a highly material fact whose concealment might well impugn even overt union agreement to a multi-employer unit; it certainly vitiates any mere implied acquiescence derived from union willingness to discuss substantive issues. We are thus confident of a Board finding upon remand that neither IWA nor LSW knowingly acquiesced in any multi-employer unit whose fundamental ingredients were purposely concealed prior to the employers' concerted lockout.

(iii) The Big Six Association was from the first intended by leading lumber producers to achieve the forbidden objective of industry-wide wage-price fixing, enforced if necessary by a concerted lockout. The moving purpose was not to secure the solidarity of a multi-employer unit by a general lockout, but to secure the general lockout by going through the forms of establishing a multi-employer unit. In the light of *United Mine Workers v. Pennington*, 381 U.S. 657, both the object and the means of the competitors' common action offended Sherman Act and NLRA prohibitions on conspiracies and secondary boycotts. Thus

considerations of conspiracy and boycott in commerce and labor relations further militate against the possibility that upon a review of the determinative issues the Board would uphold the Big Six lockout.

ARGUMENT

Because the Board's Validation of the Big Six Lockout Is Wholly Unsupported By the Irrelevant "Impasse" Premise on Which it Rests, this Case Should Be Remanded for a Decision on the Unresolved Underlying Issues.

After a lengthy trial of all the circumstances surrounding the 1963 lockout by the "Big Six" of the Western lumber industry, this case came to the Labor Board bristling with fundamental issues of restraints on competition, boycott, and multi-employer arrangements. The concerted lockout by the leaders of the industry sharply presented the question of a "secondary lockout" pledge, whereby business competitors promise each other that if any one is subjected to a strike then all will provide support by a general shutdown. Following the Supreme Court's 1965 decisions in *United Mine Workers v. Pennington*, 381 U.S. 657, the Big Six lockout agreement raises not only significant questions under the National Labor Relations Act, but also invokes Sherman Act policies against wage-fixing schemes intended to achieve price uniformity between competing producers.⁵ As presented to the Board in 1965, fundamental anti-trust and labor policy issues were at the heart of the employers' defense which was grounded on a com-

⁵ The issue of a competitor's supportive lockout to assure wage uniformity is presently pending before the Labor Board in *Detroit Newspaper Publishers Assn.*, 145 NLRB 996, reversed in 346 F.2d 527, certiorari granted, judgment vacated and reversed, and case remanded for further Labor Board consideration, 86 S. Ct. 543 (*sub. nom. Newspaper Drivers v. Detroit Newspaper Publishers Assn.*)

petitors' lockout agreement concealed from the unions but alleged to justify their common front.

The Board's opinion was issued in November of 1965 shortly after *Pennington*. It reflects agonized inability to resolve the policy issues inhering in a competitors' agreement to achieve an industry-wide wage-price pattern through a uniform wage-hour agreement, achieved if necessary by a concerted lockout. Without resolving the implications of such competitors' agreements, and without even affirming the Trial Examiner's ruling that a valid multi-employer unit had been formed by the employers and then accepted by the unions, the Board purports to find that *American Ship Building* controls the present case. The Board's abrupt and evasive ruling simply holds that the lockout in *American Ship Building* came after an impasse; that the same is true of the Big Six lockout; *ergo*, this lockout, too, was permissible.

As we demonstrate in Point I of the Argument, this simplistic ruling overlooks a controlling difference: in *American Ship Building* the Supreme Court ruled that a single employer may invoke a lockout *because* of a bargaining impasse with the *sole intent to affect* that impasse; but here the concerted lockout which the Board finds to have been preceded by an "impasse" was *not* a lockout *because* of nor addressed to any impasse—it was solely intended to implement the competitors' lockout agreement for protection of their "unity." The thousands of pages of evidence presented by the employers to the Board never once suggested the pertinence of any "impasse" to their lockout. On the contrary, their own pleadings, admissions, testimony, and public declarations, affirmed that the *sole* purpose of the lockout was protection of Association solidarity from erosion through strikes against individual members.

Because the single "impasse" premise of the Board's ruling is quite irrelevant to and cannot justify the Big Six

lockout, our plea to this Court for a remand of the case to the Board could rest with Point I of the Argument. We believe it appropriate, however, to underline the focal issues needful of Board resolution upon remand. Accordingly, in Point II we review the unresolved issues concerning (1) the alleged solidarity of the employers' bargaining association, (2) the claimed union acquiescence in the creation of a multi-employer bargaining unit, and (3) the Sherman Act and NLRA "secondary lockout" questions invoked by the inherently anti-competitive purpose of the Big Six Association and lockout. All of these issues are evaded, ostrich-like, by the Labor Board's present disposition of this case on the irrelevant "bargaining impasse" premise.

I

The Companies Having Closed Solely Because of Their "Unity-Protecting" Concerted Lockout Agreement, Any Bargaining Impasse on Contract Terms Was Quite Irrelevant and Cannot Support the Board's Validation of the Lockout.

Assessment of the Board's "impasse" rationale for the validation of the Big Six lockout must begin with the irrefutable fact that bargaining impasse was neither the cause nor the object of the employers' decision to invoke the lockout: Their decision to do so was caused solely by their prior "unity-protecting" agreement for a general lockout in the event of a strike against any employer.

The testimony of Weyerhaeuser executive Fred Wyatt, organizing genius and subsequently chairman of the Association, consumes over a thousand pages of the trial record. Though Wyatt was repeatedly questioned about the cause of the lockout, he *never once* made reference to any bargaining impasse as having prompted the decision to engage in the lockout. On the contrary, Wyatt's tes-

timony confirms the employers' admission in the Answer to the General Counsel's Complaint and in the opening statement of their counsel, that this was solely a unity-protecting solidarity lockout.

In the employers' Answer (Case No. 36 CA 1261, p. 5, para. 11) they pleaded that: "... in response to the strike against operations of association members U.S. Plywood and St. Regis, the remaining members of the Association, viz: Weyerhaeuser, Crown-Zellerbach, Rayonier and International Paper, beginning on or about June 7, 1963, temporarily shut down operations and locked out employees at the locations listed . . . for the sole purpose of defending against IWA's whipsaw tactics and preserving the multi-employer bargaining basis from the disintegration threatened by IWA strike action."* This "sole purpose" confession was underlined in the opening statement of the employers' counsel at the hearing. He conceded before the Trial Examiner (Tr. 19) that: "... the lockout was solely for the defensive purpose of preserving the multi-employer unit and I might say in response to the strike. . . ." And referring to the employers' Answer, he emphasized (Tr. 21) that: "It says 'In response to the strike certain of the respondents shut down operations.' Now this is quite different from where the individual employer, for reasons of his own, shuts down."

Consistent with these formal admissions, during Wyatt's exhaustive testimony he never claimed that the Big Six lockout was initiated in response to or because of any bargaining impasse. Rather, Wyatt testified to the employers' view (J.A. 269) that the bargaining impasse between the parties had "occurred on or about the July 15 meeting"—which was many weeks *after* the lockout had commenced! And Wyatt repeatedly affirmed that, pursuant to the Asso-

* As the Trial Examiner's decision properly holds, by this Answer the employers alleged that their lockout "was for the purpose of preserving the multi-employer bargaining basis from disintegration." (J.A. 8).

ciation Agreement, the lockout was invoked in response to the strike and *for the sole purpose* of "preserving the integrity of our Association." See J.A. 224; 228-229; 230-231; 268; 403; 407-408. Moreover, the employers' own minutes of their meeting of June 5, 1963 (G.C. 63, p. 1), confirm that the exclusive reason for the lockout vote there cast was the prior "obligation" to close in the event of a strike against any Association member.

Finally, as if these repeated admissions and employer testimony were not enough, at the commencement of the lockout the companies had publicly stated (R. 28) that "to protect the interests of our group against this selective strike we are . . . closing our operations for as long as this strike continues." The Trial Examiner has properly found that the employers thereby stated that their lockout "was to protect their group solidarity against selective strikes" (J.A. 54).

All of this evidence confirms beyond possibility of dispute the utter irrelevance of any pre-lockout "impasse" on substantive bargaining terms to the invocation of the lockout. A concerted lockout undertaken for a reason quite distinct from any bargaining impasse over contract terms can not be deemed legitimized merely because such an impasse may then have existed. If the Companies were not prompted to their lockout by bargaining impasse, there is simply no merit to the Board's decision that because an impasse existed (as in *American Ship Building*), the employers were automatically privileged to close in support of struck competitors. *American Ship Building* has nothing to do with a concerted solidarity lockout coming after but *not because of* a bargaining impasse. *American Ship Building* was exclusively addressed to a situation wherein a single employer engaged in a lockout *because of a substantive bargaining impasse and with the sole purpose of breaking that impasse.*

Thus, the Court opened its *American Ship Building* opinion by declaring that the issue presented was whether an employer may lock out "to bring economic pressure in support of his bargaining position" (at pp. 301-2). It went on to say that following a bargaining impasse "in light of the failure to reach an agreement . . . the employer decided to lay off certain of his workers," announcing that the lay-off was "because of the labor dispute which has been unresolved since August 1, 1961 . . ." (p. 304). The Court then noted that the Board Examiner had found that by a lockout the employer had the "intention to break the impasse which existed," and that the Board had found "only one purpose underlying the layoff"—to break the bargaining impasse and reach a settlement (p. 305). The Court further stated that both the Board and its Examiner had acted on the assumption that the employer "*had shut down its yard and laid off its workers solely for the purpose of bringing to bear economic pressure to break an impasse and secure more favorable contract terms. . . .*" (at p. 306).

The Court then sharply distinguished the impasse-lockout in *American Ship Building* from Board cases involving a multi-employer lockout in response to a strike against individual employers, which the Court characterized (at p. 307) as "*another distinct class of cases. . . .*" The Court distinguished such solidarity-lockouts from *American Ship Building*, emphasizing that "What we are here concerned with is the use of a temporary layoff of employees solely as a means to bring economic pressure to bear in support of the employer's bargaining position, after an impasse has been reached. This is the only issue before us, and all that we decide" (p. 308).

Seizing on this last quoted reference to a lockout "after an impasse has been reached," the Board's decision would completely gloss over the critical difference between a single employer lockout solely in order to break an im-

passee (*American Ship Building*), and a concerted lock-out undertaken *not* because of any existing impasse but solely because of a prior agreement of competitors to support any struck employer by a general lockout. To say that the Board's equating of post-impasse lockouts with multi-employer solidarity-lockouts was superficial is generosity under these circumstances. The Board's view that this case is governed by the impasse ruling in *American Ship Building* is simply an unblushing error of law. It defies belief that the Supreme Court in *American Ship Building* validated, *sub silentio*, multi-employer lockouts following an impasse but actually directed only to the cohesion of the employers against a selective strike.⁷

If there were any conceivable doubt on this score, the recent Supreme Court decision in *Detroit Newspaper Publishers, supra*, p. 30, n. 5, makes clear that no such broad doctrine was intended. There the Sixth Circuit Court of Appeals (346 F. 2d 527), indulging the same overextension of *American Ship Building* as the Board does here, had found valid a lockout by one newspaper to support a competitor in a strike situation where both were members of the same bargaining Association. The notable similarity

⁷ In the text we have assumed, for the sake of argument, the validity of the Board's holding that prior to the lockout "all six Employers had reached an impasse with the Unions over certain of the economic items being negotiated." Although, in view of the irrelevance of impasse, this issue is not before this Court, we cannot refrain from pointing out the serious doubt that an economic bargaining impasse was reached before the lockout. No impasse claim having been made at the trial, and no finding of impasse having been included in the Trial Examiner's Intermediate Report, the question was not presented to the Board in the usual adversary context. But had it been so presented, the unions would have pointed out that Wyatt, who had been chief Association spokesman at all negotiations, testified to the employers' view in 1963 that a bargaining impasse was reached on about July 15, which was long *after* the lockout had commenced. Moreover, any breakdown of negotiations before the lockout resulted in large measure, indeed principally, from the inability of the employers to resolve among themselves questions of the Association's authority, and their refusal to make honest disclosures to the unions of material facts about their organization and their lockout intention.

of that case appears from the summary of the facts in the Sixth Circuit's opinion (at pp. 529-530):

"The evidence relating to the question presented here is undisputed and may be stated as follows: The Association is a voluntary unincorporated association whose membership consists solely of the News and the Free Press. It was formed many years ago by the Detroit papers for the purpose of negotiating and administering labor contracts and handling the labor relations of its members. The News and the Free Press are the only large daily newspapers in Detroit. The News publishes in the afternoon of week days and on Sunday morning. The Free Press publishes daily in the morning, including Sunday.

In October, 1961, Newspaper Drivers & Handlers' Local Union No. 372, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Ind., hereinafter called the Teamsters, and the petitioner in case No. 15743 herein gave notice to the Free Press of its desire to revise its contract with the Free Press expiring November 15, 1961. The Free Press and the Teamsters held seventeen bargaining sessions between October 26, 1961 and March 20, 1962. On April 6th, the Teamsters presented a revised proposal to the Free Press and advised that strike action would be recommended on April 11th, if a satisfactory offer was not received by that date. About noon of April 11th, the Free Press gave the Teamsters its 'last best offer' which was presented to and rejected by the Teamster members in the Free Press unit. The members voted to strike, a picket line was set up that afternoon, and the Free Press suspended publication.

In October, 1961, the Teamsters also gave notice to the News of its desire for a revision of its contract with that newspaper. Between October 27, 1961, and

January 11, 1962, the Teamsters and the News held thirteen bargaining meetings. The parties met again on March 22nd and the Teamsters agreed to submit revised contract proposals. Revised proposals were not submitted to the News until April 12th, the day following the commencement of the strike at the Free Press.

On April 9th and 10th officials of the News met with officials of the Free Press to discuss what were common problems with the Teamsters. It was found that of about eighteen issues between the Free Press and the Teamsters, ten of them were of interest to the News. The News urged the Free Press not to give in on three of them under any circumstances. The News agreed that if the Teamsters struck the Free Press over its refusal to accede to any of those three demands, it would support the Free Press and would not publish. The two papers further agreed that they would not inform the Union that a strike against one would be a strike against both, or what the position of the News would be in event of a strike at the Free Press.

It is conceded that the Free Press and the News do not bargain with the Teamsters jointly or as a multi-employer unit, as that term is traditionally used by the Board and the courts. The News ceased publication when the Teamsters struck the Free Press."

After the Sixth Circuit uncritically applied *American Ship Building* to validate the Detroit News lockout, the union sought *certiorari*. It urged that the decision of the lower court improperly avoided underlying anti-trust and labor relations issues presented by a sympathy lockout pursuant to a pledge between competing newspapers. The Supreme Court granted review, reversed the Sixth Circuit's judgment, and remanded the case for further con-

sideration by the Labor Board (86 S. Ct. 543), and the case is presently pending before the Board on reargument.

A like result is required here, where the Board's misapplication of *American Ship Building* begs the same fundamental issues. The Board's indiscriminating disposition of this case obscures the vital difference between a concerted lockout pursuant to a lockout pledge among industrial competitors, and a lockout by a single employer seeking to vindicate his individual economic interests. True, the Board cites the opinion in *NLRB v. Brown*, 380 U.S. 278, a companion to *American Ship Building*, which involved a multi-employer lockout. But in *Brown* there was no issue over the integrity of and the union's acceptance of a multi-employer unit, and the Court's ruling on the single question of the right to replace locked-out workers simply has no bearing in this case, where a multi-employer unit has not yet been found established. And, as concerns *American Ship Building*, there is nothing therein which in any way implies the legitimacy of a concerted lockout by competitors, whether it precedes or follows a bargaining impasse.

The net result of the Board's overextension of *American Ship Building* to a concerted "solidarity lockout" is to validate *all* competitors' lockouts whenever contract bargaining is stalled and the union strikes a single employer. Such a ruling would approve the grossest form of "ganging up" on a union by industrial competitors. *It could effectively and generally preclude union resort to the strike itself, for fear of an industry shut down in response.* Whatever else may be said of so wide an inroad on prevailing boycott prohibitions, upon the duty of individual bargaining between an employer and the certified union of his employees, and upon the protected right to strike for economic goals, it is a certainty that *American Ship Building* nowhere validates so extensive a change in our federal labor relations law.

A concerted competitors' lockout cannot be validated by an impasse which did not provoke it. It is therefore manifest that this case must be remanded to the Board for further findings and adjudication of the fundamental unresolved issues. The concerted lockout by the Big Six cannot be approved until and unless the Board holds that the employers' Association was recognized by the unions as a multi-employer unit and that, in fact, it had that "solidarity" which the lockout is alleged to have protected.

II

The Focal Issues for Board Resolution on Remand

Our submission to this Court might well end with the demonstration that the Board's validation of the Big Six lockout rests upon a ground which fails to support it. Because the Board's opinion is limited to the irrelevant "impasse" ground and fails to decide the fundamental questions which were properly tried and argued to the Board, there is no further question which is presently "ripe" for this Court's adjudication. See *SEC v. Chenery Corp.*, 332 U.S. 194; *NLRB v. Capital Transit Co.*, 95 U.S. App. D.C. 310, 221 F. 2d 864, 867. Nevertheless, the Court may desire to return the case to the Board with instructions or questions on the principal issues to be resolved by the Board. For that reason, and to underline the material points which the Board has thus far evaded with its erroneous "impasse" decision, we set forth herein the salient issues which the Board should adjudicate in this case. These concern (i) the "solidarity" of the employers' multiemployer bargaining Association (see pp. 41 to 43, *infra*), (ii) whether the unions acquiesced in a multi-employer unit (see pp. 43 to 50, *infra*), and (iii) the serious anti-trust dimensions of any Labor Board ruling validating a combination between competing industry

leaders attempting to fix an industry wage-price pattern through the power of a concerted lockout (see pp. 51 to 55, *infra*.)

A. Did the "Big Six" Association have the binding solidarity which distinguishes a multi-employer unit from mere group bargaining?

Where a concerted lockout is defended before the Board on the ground of necessity for the protection of the "integrity" of a multi-employer bargaining unit, a finding of employer solidarity—of the "binding" quality of the employers' association—is a necessary primary determination. For it is axiomatic that a concerted competitors' lockout cannot be justified as protecting the "unity" of a multi-employer Association which lacks the "unity" alleged to require concerted protection. The authorities hold that the creation of an employers' bargaining association does not result in the creation of a multi-employer bargaining unit if the delegation of the bargaining power to the association is merely supplemental to reserved employer power to bargain or settle individually (see *The Kroger Co.*, 148 NLRB 569, and cases cited), or if the delegation of bargaining authority is revocable at will (see *Indiana Limestone Company, Inc.*, 136 NLRB 697), or if in other ways what gives the appearance of a multi-employer unit is merely a format for group bargaining by individual employers acting in their own interest (see e.g. *Bennett Stone Company*, 139 NLRB 1422).

Consistent with these established principles, a large portion of the evidence introduced before the Board was addressed to the question of the integrity and solidarity of the Association. See *supra*, pp. 4-8 and 15-20. That evidence demonstrates 1) that the Association was hastily and belatedly formed in April of 1963, after bargaining between the companies and the unions had actually

commenced by the making of individual-employer "openings" (J.A. 20); 2) that key contract subjects were specifically excluded from the Association's bargaining power; 3) that in derogation of the allegedly irrevocable and complete delegation of individual bargaining power, U.S. Plywood throughout the pre-lockout negotiations insisted on continuing individual bargaining over hours of work and overtime and threatened to withdraw from the Association if precluded from such bargaining; 4) that each of the individual employer invitations to the unions to commence talks, asked them to negotiate with both "the Association and this Company"; 5) that at every bargaining session each of the six employers' key negotiators participated, expressing the views and bargaining for his own employer (J.A. 404); 6) that the original draft Association Agreement calling for the six members' decisions by a majority vote was changed in the final version to a 75% vote—which appears to have been and in testimony by Wyatt during a California unemployment compensation proceeding was conceded to have been actually a veto for any member (*infra*, p. 49, n. 10); 7) that the same draft Agreement had been altered before it was signed to eliminate all reference to Association power "binding on all companies", to eliminate the description of the Association as one in which "the companies shall bargain as a unit," and to add "voluntary" to the description of the Association; and 8) by other evidentiary demonstration that the Association was but a device for simultaneous group negotiations with individual employer authority reserved in numerous ways, rather than a body with fully delegated, exclusive and irrevocable power to settle on contract terms binding on its members.

None of these weighty challenges to the unity of the employers' Association has yet been resolved by the Board. At the time of the lockout, and throughout the extensive

Board hearings, the employers defended their concerted action on the ground that they were protecting the solidarity of their Association. There can be no valid determination upholding their lockout until their solidarity defense is put to the test of a Board ruling. But even if the Board, contrary to the evidence, should determine on remand that the Association had the requisite binding power, there would then arise the second salient question litigated before the Board, concerning acquiescence by the unions necessary to give recognition and existence to any new multi-employer unit basis of collective bargaining.

B. Did the unions accept a multi-employer bargaining unit basis for the 1963 contract negotiations?

The consistent historical pattern in the Western lumber industry has been one of union bargaining for individual-employer units certified by the National Labor Relations Board. Traditionally, the employers have sat in negotiations through loosely-joined employer associations making no pretense of irrevocable or exclusive authority to bind any employer. With no prior history of multi-employer unit bargaining, it was requisite, as specifically recognized by the employers during the formation of their Association (see J.A. 127; 138), that the unions agree to any new multi-employer format.

It is also undisputed that the Big Six never actually disclosed to the unions their Association Agreement, which contemplated the lockout benefits of multi-employer bargaining format, and that neither union ever expressly accepted or recognized a multi-employer unit. Accordingly, the Trial Examiner's finding of union recognition is based wholly on the view that simply by meeting on substantive contract issues during the few weeks prior to the lockout, the unions acquiesced in or gave *de facto* recognition to a multi-employer unit. The evidence contradicting that view

is summarized *supra* at pp. 8-12 and 20-23, and we merely highlight here the chief elements bearing on the acquiescence issue which the Board has yet to adjudicate.

(i) *The IWA Negotiations.*

Wyatt's representations to the IWA in the spring of 1963 concerning the nature, structure, and purpose of the Big Six Association were characterized by the desire to reveal as little as possible of intention to achieve a multi-employer unit. Wyatt correctly appreciated that IWA would not be agreeable to a lockout-validating multi-employer unit. For that reason, Wyatt did not inform the IWA of the existence or content of the Association Agreement, of the minority veto rule within the Association, or of the employers' binding commitment to support each other by a concerted lockout in the event of a strike. Moreover, the formal letter by each of the Big Six employers to the IWA inviting it to meet with both "*the Association and this Company,*" and representations in subsequent meetings with IWA, scrupulously avoided any reference to a multi-employer unit.

The *single* intimation that a multi-employer unit rather than a loose association was actually in contemplation, was Wyatt's verbal assertion in the opening meeting with IWA on April 24, 1963, that the Association could make a "binding" settlement on new contract terms. IWA representative Nelson immediately challenged that claim upon the ground that U.S. Plywood had opened for individual bargaining the question of hours of labor and overtime—which plainly impugned any exclusive power of the Association to conclude a wage-hour settlement binding on all members. Thereupon, there ensued two days of meetings wherein U.S. Plywood steadfastly refused to surrender to the Association its individual bargaining right over hours of labor and overtime. Indeed, as Wyatt informed the IWA, U.S. Ply-

wood threatened to withdraw from the Association rather than surrender its individual bargaining authority.

Thus, the single and indirect intimation to IWA that a multi-employer unit was actually in contemplation—Wyatt's verbal claim of Association "binding" authority—was visibly impugned and remained so to the time of the lockout. The individual bargaining insisted upon by one of the giants of the Big Six, and its threat to withdraw from the Association, negated Wyatt's verbal claim of Association "binding" power; for it was axiomatic that if members had power to bargain unilaterally and to withdraw at will, then the Association lacked the primary ingredients of a multi-employer unit. See *supra*, p. 41.

Moreover, the employers well knew that IWA had given no agreement to a multi-employer unit, since they knew that the IWA Regional Council was *powerless* to do so in view of IWA's organizational structure. IWA local unions were the sole possessors of Labor Board unit certifications, and local unions had traditionally delegated but also expressly limited, the bargaining authority of their IWA Council. Thus, in 1963 the delegations to the IWA Council limited the power of the Council to specific bargaining items, none of which included change of the existing individual bargaining unit base. The written delegation *and its limitations* had been served upon each employer (G.C. 2-39).⁸ Thus the employers knew that the IWA Council

⁸ Local Union No. . International Woodworkers of America, hereby notifies you in accordance with the terms of the working agreement which exists between this Local Union and your Company, this Local Union desires revisions and amendments in the working agreement as follows:

General wage increase of forty cents (40¢) an hour plus additional increases in pay for skilled job classifications.

A three (3) year agreement.

Travel time pay for loggers.

This local Union No. . International Woodworkers of America, notifies you that the Western States Regional Council No. 3, Inter-

spoke only for individual local unions and had no authority to negotiate away the reserved right of each local to bargain and contract for its Board-established representation unit.

The combination of facts suppressed from and facts made known to the IWA *all* manifested the lack rather than the existence of Association authority to bind its members. To hold that under these circumstances mere participation by IWA in six discussions of economic issues with the Association and the Companies was acquiescence by the Union in a multi-employer unit, would be to hold that the indispensable union agreement to such a unit can be achieved by trick and by purposeful concealment of material facts. Upon a remand to the Board, there would simply be no basis for a finding that IWA knowingly acquiesced in and recognized a multi-employer unit.

ii. *The LSW Negotiations.*

When it comes to the LSW negotiations, Wyatt played a quite different hand from the meetings with IWA. Knowing of LSW's affirmative interest in the benefits and the protections of a multi-employer unit, Wyatt sought to make just enough revelations of "solidarity" to convince LSW that such a unit was in contemplation. He conceded the existence of an actual Association Agreement. He affirmed

national Woodworkers of America, has sole authority to represent it in all negotiations on the proposed amendments and revisions stated above and also on all negotiations on any amendments or revisions requested by you or your representatives. Any departure from this notice must be in writing to you over the signature of the Western States Regional Council No. 3.

Any proposed settlement reached by you or your representatives with the Western States Regional Council No. 3 shall be subject to ratification or rejection by referendum vote of the membership involved, conducted by the Western States Regional Council No. 3.

Any additional revision or amendment which this Local Union desires shall not be a subject of negotiations by the above-mentioned Council. The Local Union retains the right and privilege of meeting with you or your representatives on these matters.

the existence of a decision by the Big Six to a lockout in response to a selective strike, by which he manifested his intention to claim the principal legal benefit of a multi-employer unit. Thus Wyatt sought to assure LSW of its desired protection from rival union raids at particular locations.

LSW, however, was not ready to acquiesce in any incomplete and nebulous multi-employer unit, thereby subjecting itself to a concerted lockout in the event of a strike, without corresponding benefits from such acquiescence (see J.A. 573-574). Accordingly, it declined to recognize the Association unless and until certain assurances were made to it: 1) the guarantee of a single master agreement resulting from the negotiations, 2) the inclusion of employer units east of the Cascades and 3) incorporation of the excluded major bargaining subjects. In the first meeting between LSW and the Big Six, on May 9, 1963, after extensive exploration of the scope, structure, and intention of the new Association format, LSW remained adamant that it would not recognize the Association unless and until further satisfactory arrangements and guarantees were made on these three points. With that understanding, on May 9 LSW and the Big Six commenced discussion of substantive terms; in the Trial Examiner's view such discussion constituted LSW acquiescence in a multi-employer unit.

We need not belabor the serious legal questions posed by the Trial Examiner's novel theory that change of a historical collective bargaining pattern from single certified units to a multi-employer unit basis can be achieved without express union concurrence in such a radical alteration of the ground rules. It would be questionable enough to predicate acquiescence upon implications drawn from equivocal union statements. But in this case the implication is drawn by the Trial Examiner merely from the action of the union in discussing economic issues with the new Association in

the face of express LSW refusal to recognize an Association whose character and purpose was still unclear, and whose geographical and bargaining limitations the LSW had declared unacceptable. In our view, under the Board's own guiding authorities there could be no basis for a Board finding in this case that implied acquiescence on the part of the unions changed the bargaining format from a local to a multi-employer unit basis.*

Apart from other serious questions presented by *de facto* recognition and implied acquiescence in a multi-employer unit, in the present context that theory raises an issue of general import under the Labor Act: *may a union be held to have accepted an association as the binding representative of employers for multi-employer bargaining purposes, where a material ingredient of the Association—minority veto power—is concealed from the union because the employers fear that disclosure will preclude union acquiescence?* In the May 9th opening meeting the LSW asked to see the Association Agreement. As the Trial Examiner has found (J.A. 71), that request was denied by the employers because they feared that LSW would refuse acquiescence if it learned, upon reading the Association Agreement, that a minority could veto a settlement which a majority of the Big Six was willing to conclude.

The Trial Examiner was certainly correct in anticipating that disclosure of the 75% rule would have precluded the willingness of the unions to commence Association negotiations. This is doubly true in the case of LSW. Since it had no contracts with Rayonier (J.A. 587), the 75% rule meant for LSW that a *single* company could veto a settle-

* Indeed, a contrary result would put a premium upon labor union refusal to meet at all with new employer associations or organizations. If mere discussion of economic issues with employer groups can constitute union acquiescence in an undisclosed and unacceptable multi-employer unit, unions would have to seek the protection of refusal to discuss economic issues with such groups—a result hardly consonant with the underlying purpose of the Act to promote collective bargaining.

ment desired by the other four if it could merely win Rayonier's abstention. While Wyatt testified before the Board (J.A. 439 et seq.) that the rule would not operate in that fashion because in the case of LSW Rayonier was excluded and only 75% of *five* members would be required, the fact is that Rayonier did actually participate in at least one vote involving contract offers to LSW, on June 3, 1963 (B. 368, p. 16). Moreover, in a California hearing (G.C. 42) held prior to the Board hearing, Wyatt conceded that a single employer *could* veto any settlement.¹⁰

Unions are well aware of what they stand to gain and lose by agreeing to multi-employer unit bargaining. *Without* it, LSW knew from past experience that it could strike

¹⁰ Association Chairman Wyatt testified in a California Unemployment Insurance Appeals Board hearing on August 26 and 27, 1963. In that testimony (G.C. 42, pp. 85-86), referring to a conversation of June 3d, Wyatt stated:

"... I indicated certain confusion, and there certainly was, with respect to a number of positions, a number of issues before us, a number of points of difference, a threatened strike and the fact, as I mentioned it, that if a partial strike took place the rest of the companies would shut down, were bound to shut down. Now, in connection with many of these issues and much of this confusion, in response to a question I replied that one member, the way the association was constituted, could prevent any given action on the part of the association as such on collective bargaining action."

Wyatt repeated this affirmation at pp. 137-138 of the California hearing:

"Q. Then did I not ask you, 'And are you certain that each company is bound to this agreement?' and did you not respond to me that any one company may abrogate the agreement?"

A. I did not, Dan, not with respect to the lockout, not with respect to the lockout.

Q. With respect to what then?

A. Almost anything else in the association, any action, any action to make an offer, not to make an offer, to be down a point, to do almost anything an association does in the normal conduct of collective bargaining, but to me there wasn't any question. Nor was there any right on the part of any one individual company to by their disagreement prevent a lockout except by running the risk on their part of breaching that agreement . . ."

less recalcitrant employers and by successive settlements gain concessions from stronger and more reluctant employers, such as Weyerhaeuser (see J.A. 15). But *with* a multi-employer bargaining unit, while LSW was aware that the concerted lockout could preclude effective strikes against individual employers, yet it could at least anticipate that the more reluctant employers might be outvoted within the Association on terms for settlement with the union (see Tr. 1766). However, by accepting a multi-employer unit operating on a minority veto rule, the Union would have lost the only bargaining advantage compensating for surrender of the valued strike weapon. For then a single intransigent employer could enforce its intransigence by vetoing any settlement with the prior assurance of forcing a concerted lockout if a strike then resulted. This, in fact, is what Weyerhaeuser *achieved* by its intransigence on the principal Weyerhaeuser objective of the seven-day week, which other employers were more willing to abandon (J.A. 131; 274; 422-424; 706-797).

It will not be necessary for the Board to resolve in this case whether the unions would have refused multi-employer bargaining recognition had the minority veto not been purposely concealed from their knowledge. It is enough that minority veto power in an employer association—a serious derogation from “binding” delegation of unit authority—constitutes a highly material fact whose concealment might well impugn even overt union acquiescence; it certainly vitiates any merely implied acquiescence to a multi-employer unit derived from union willingness to discuss substantive issues. We are confident of a Board finding upon remand that neither IWA nor LSW knowingly acquiesced in a multi-employer unit whose fundamental ingredients were purposely suppressed from the knowledge of the unions for fear that disclosure would preclude assent.

C. Is a lockout pursuant to agreement of leading manufacturers seeking to set an industry wage-price pattern consistent with restraint of trade and secondary boycott prohibitions inhering in the National Labor Relations Act?

A final serious issue for Board resolution arises in the wake of the Supreme Court's historic 1965 ruling in *United Mine Workers v. Pennington*, 381 U.S. 657. *Pennington* greatly restricted the previous ambit of the labor anti-trust "exemption," precluding its operation where agreements concerning wages and hours were used as a device for achieving an anti-competitive purpose prohibited by the Sherman Act. There is evidence that both the Big Six goal and the means chosen for its achievement violated federal competition-in-commerce norms expressed in the anti-trust laws and implicit in the NLRA after *Pennington*.

As concerns the Association's purpose, it was set forth with remarkable candor in Wyatt's testimony on direct examination. He stated (see *supra*, p. 5) that in a severely competitive market where prices were low, it was his intention through the formation of the Association and its 7-day week demand—enforceable by a concerted lockout—to set a wage-hour pattern in the industry which would give lumber a competitive price advantage over "substitute materials" on the market. Wyatt proposed nothing less than (1) an industry-wide wage-hour pattern, (2) set by the leading competing producers through a prior pledge to obtain a uniform contract settlement, if necessary by a concerted lockout, in order (3) to achieve a price advantage for lumber in a market characterized as overly competitive.¹¹

¹¹ Wyatt's testimony on the objective of the employers in forming their Association contrasts starkly with the Supreme Court's *Pennington* injunction against industry-wide wage fixing schemes. In that case the Court admonished (at p. 666) that "... there is nothing in the labor policy indicating that the union and the employers in one bargaining unit are free to bargain about the wages, hours and working conditions of other

As *Pennington* emphasizes, concern over what his competitor will give or withhold from the union in wage-hour matters, is not a legitimate ground for an employer's limitation of the union's relations with the competitor. In view of that emphasis, and of the *Pennington* holding that forbidden anti-competitive schemes are not exempted from anti-trust norms merely because achieved through wage-fixing agreements, it is clear that the present case falls within the ambit of federally forbidden conduct. Of course, the NLRA may sometimes sanction what the Sherman Act forbids. But wherever possible, the preferred reading is one which avoids a conflict, by construing federal regulatory statutes consistent with Sherman Act competition-in-commerce norms. See *National Broadcasting Co. v. United States*, 319 U.S. 190, 222-24; *McLean Trucking Co. v. United States*, 321 U.S. 67, 80.

Nor, in our view, is the anti-competitive thrust of the Association's purpose saved from invalidity under the National Labor Relations Act merely because a multi-employer unit was the purported vehicle for the achieve-

bargaining units or to attempt to settle these matters for the entire industry." Wyatt described the employers' objective in forming their Association in the following terms (J.A. 357; 130-131; cf. 15-16).

"... this [separate bargaining] may have been all right, and no doubt was, for the industry in a great many of its years, but probably wasn't the answer for what we saw ahead and until we could take those competitors who were knocking each other over on the head in the market place and doing everything possible to gain competitive advantage, and bidding against each other for timber, as well as for the customers, until they all felt that a move on their part in a constructive direction would be matched at the same time by the move of the other members, it was always going to be, 'I won't move until the other guy does.' . . ."

"... in their discussions with the unions they needed to be reaching agreements which were binding upon all of them at the same time and that there wasn't the previous disadvantage of an individual company being concerned about coming to grips with a new procedure or a new agreement because he didn't know what others in the industry might be going to do in the same respect as to whether he might become less competitive by the fact that he might alone be asked to do it."

ment of the interdicted goal. Concededly, Sherman Act protections from competitors' wage-fixing agreements may be nullified where a multi-employer bargaining unit is effectively established and accepted for collective bargaining purposes. Cf. *Amalgamated Meat Cutters v. Jewel Tea Co.*, 381 U.S. 676. That is because of a competing and overriding social value attached to bargaining on a multi-employer basis where employers and unions consciously desire and agree to such a format. But to preserve the teaching of *Pennington*, we believe that the Board may validate competitors' concerted lockout agreements *only* where the central purpose of the employers is not a "one-shot" (see J.A. 69) industry-wide wage-price pattern, but a long-range desire to change the format of bargaining from individual employer units to an effective multi-employer basis.

We find support for that view in the NLRA itself, in the concern of the Taft-Hartley amendments to prohibit secondary boycotts. At the time of Taft-Hartley, Congress was little concerned with lockouts (then thought to be generally illegal under the Act); but, when it came to strikes, the Congress emphatically precluded union involvement of a neutral employer in a primary dispute between the union and another employer. Section 8(b)(4) of the Act shields "unoffending employers and others from pressures in controversies not their own." *NLRB v. Denver Building Trades Council*, 341 U.S. 675, 692. An agreement by competitors to come to the aid of any struck employer with a concerted lockout is the exact counterpart of the secondary boycott by the union. Neutral employer involvement is no more acceptable *when the neutral employer locks out the union* to aid another employer in his labor dispute, than *when the union strikes the neutral employer* because of a primary dispute with the other employer. If the union cannot strike the neutral because of its dispute with the primary employer, it appears axiomatic that the neutral

may not lock out the union to support the primary employer.

The Big Six Association was from the first intended by the leading lumber producers to achieve the forbidden objective of industry-wide, wage-price fixing, enforced if necessary by a concerted lockout. The moving purpose was not to secure the solidarity of a multi-employer unit by a general lockout, but to secure the general lockout by going through the forms of establishing a multi-employer unit. As Wyatt, guiding genius of the Association, testified in an unguarded moment (J.A. 211), "one of the very real reasons for forming the Association in the first place was to make a strike an outmoded thing . . ." Thus, both the object and the means of the competitors' common action offended Sherman Act and NLRA prohibitions on conspiracies and concerted boycotts in commerce and labor relations.

We have treated the competition-in-commerce norm of the anti-trust laws and the secondary boycott prohibition of the labor law as separate measures separately invoked by the concerted agreement, action, and goal of these six competing producers. But it is worthy of recollection that the restraint of trade prohibition of the anti-trust laws and the secondary boycott prohibition of our labor law have a single origin in the common law of boycotts and conspiracy. It was that common law which courts invoked against the labor strike until Congress prohibited them from so doing in the 1930's; then in 1947 it amended the prohibition to enjoin secondary boycotts under the National Labor Relations Act. But whether viewed from the vantage point of common law, anti-trust law, or labor law, the same ultimate fact emerges from this combination among leading Western lumber producers to achieve a single wage-price pattern in the industry, if necessary by a concerted lockout. The conclusion is that in the absence of a valid multi-employer unit knowingly accepted by the unions as a new basis for collective bargaining, the entire Wyatt scheme for an em-

ployers' "strike against all agreement" (*supra*, p. 5), was from the first but a combination by competitors to "gang up" on the unions by a concerted shutdown. That concerted boycott was the very essence of the conduct equally forbidden by federal common law, anti-trust law, and labor law.

In sum, these considerations of conspiracy and boycott in commerce and labor relations further militate against the possibility that upon a full review the Board would uphold the Big Six lockout. If called upon to resolve the fundamental issues concerning the formation and true purpose of the Association, the alleged solidarity and binding quality thereof, and the question whether the unions knowingly acquiesced in a new multi-employer bargaining basis, we are confident that the Board will find no valid multi-employer unit was either created or accepted and that this concerted lockout of unionized workers offended the guarantees of the National Labor Relations Act.

Conclusion

One may sympathize with the Board's reluctance to resolve a case bristling with fundamental issues at a time when the Supreme Court had just handed down historic rulings challenging accepted learning in the area of the lockout and of the labor relations anti-trust exemption. But the difficulty of the Board's task cannot excuse its simplistic and evasive resolution of this case on the wholly irrelevant and afterthought "impasse" ground. For it is irrefutable that the employers locked out in concert *not* because of or in order to affect a bargaining impasse, but solely because they had pledged themselves to a concerted solidarity lockout in the event of a strike against any employer. The lockout can stand or fall only on *that* ground, which the employers publicly announced and judicially proved to have been the sole cause of their challenged concerted action.

It is submitted that this case must be returned to the Board for resolution of the material issues which were fully litigated, analyzed by the Trial Examiner, and duly presented to the Board for its decision. Only thus can be observed the mandate of the Act for considered and orderly agency adjudication and meaningful judicial review.

Respectfully submitted,

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APPENDIX

**The General Counsel's Factual Submission to the Board
(pp. 2-30 of "General Counsel's Brief in Support of Ex-
ceptions", July 1, 1965)**

1. Bargaining History in the Northwest Timber Industry.

To draw from the testimony of F. Lowry Wyatt, prime mover of the respondent association and the Respondents' only witness, the bargaining picture in the Northwest timber industry historically has been one

. . . of any number of bargaining associations of various kinds which represented various and changing groups of individual employers, and always characterized by a number of independent employers who bargained individually. The list of independents changed from year to year and bargaining to bargaining, as did the character and structure of the various associations. The common denominator of the various associations was probably the fact that they were never organized [on a] fully-bound basis. The result of bargaining through these associations was typically a recommendation . . . to their members . . . as opposed to being bound to a common result if that was unsatisfactory to any member [T]his has been the case in the industry . . . right up until 1963. T. 381, 382. See also, TXD 5, L. 18-28; TXD 7, L. 11-15.⁵

Wyatt might have added that the list of independents changed not only from year to year and bargaining to bargaining, but sometimes in the very midst of a given set of negotiations as well. TXD 6, L. 53-56.

Bargaining through some form or other of multiemployer association had its inception in the Northwest timber in-

⁵ References to the Trial Examiner's decision are signified by the letters TXD, followed by enumeration of page and line to which reference is made. References to the hearing transcript are signified by the letter T, followed by a like enumeration.

dustry in the midthirties, with the creation of the Columbia Basin Loggers Association and the Columbia Basin Sawmill Association. T. 1615. Although membership in those two associations varied considerably over the years, both on occasion bargained with LSW and IWA on behalf of certain of those later to comprise the Bix Six. Of all the associations that have come and gone, only the Columbia Basin Loggers Association had the power to bind its members to uniform bargaining agreements and to execute on behalf of its members the agreements it negotiated. TXD 5, L. 20-21, L. 60-61.

The two Columbia Basin associations, while apparently existing into the 1950's (T. 1620), began to be supplanted by other multiemployer bargaining vehicles in about 1942, when the Lumbermen's Industrial Relations Committee (LIRC) came into being. T. 1574. LIRC existed until 1958 (T. 383) and, together with several other multiemployer associations which rose and fell in the '40s and '50s, sometimes bargained for several of the companies comprising the respondent association, among others. T. 383. In 1958, LIRC and most of the other multiemployer associations then in being were consolidated into an association called Forest Products Operators (T. 386), which in turn was superseded in 1960 by Timber Operators Council (TOC). TXD 6, L. 16-17.

TOC was the foremost multiemployer association in the general negotiations of 1961. It possessed the frailties of its most permissive predecessors (see TXD 6, L. 16-33), and bargaining chaos inevitably resulted. That chaos can be best illustrated by summarizing 1961 bargaining developments concerning IWA and those to comprise respondent association: St. Regis, although a member of TOC, and Weyerhaeuser each negotiated separately. R. 396, p. 1, 2.⁶ International bargained through TOC, except for its independent negotiation of pensions. R. 396, p. 2. Crown Zel-

⁶ References to the Respondents' exhibits are signified by the letter R, followed by enumeration of exhibit number and, where appropriate, page. References to the General Counsel's, IWA's and LSW's exhibits are signified by the letters G.C., IWA, and LSW, respectively, followed by a like enumeration.

lerbach, Rayonier, and U. S. Plywood were represented by TOC at the outset of negotiations, but withdrew before consummation, necessitating IWA's separate negotiation with each. G.C. 67; R. 396, p. 2; TXD 6, L. 53-57.

For all its 1961 ineptitude, TOC functioned again in the general negotiations of 1963, coexisting with the newly spawned respondent association. Four members of the respondent association had representatives on TOC's policy-making committee during TOC's 1963 negotiations with IWA and LSW, and were represented by TOC on some issues in those negotiations. T. 2144; T. 1510, L. 4-5; T. 1532; TXD 44, L. 27-29. In fact, the 1963 bargaining demands and offers of TOC and the respondent association were identical, and were so treated by IWA and LSW. R. 374, 375, 381. To avoid repetition of its midnegotiation disintegration of 1961, TOC in 1963 bargained only for those companies which made a precedent commitment not to withdraw. As always, however, the 1963 TOC settlement was not binding on those for whom TOC bargained. G.C. 74; TXD 6, L. 58-62.

Both IWA and LSW have used the strike weapon incidental to contract negotiations. The last industrywide strike among Northwest timber companies occurred in 1954. Strikes since that time have been limited to one or two selected employers. This practice of selective striking is sometimes called "single shotting." Single shotting normally has been directed to key members of employer associations, thereby inducing associationwide settlements from which industrywide settlements generally have been patterned. Single shotting thus possesses nearly the effectiveness of the industrywide strike without so great an economic hardship to employees. TXD 6, L. 34-51. Before 1963, lockouts were unknown. T. 1198.

2. Evolution of the Respondent Association.

In the spring or early summer of 1962, the aforementioned F. Lowry Wyatt, of Weyerhaeuser, initiated informal discussions with officials of various Northwest timber companies concerning the desirability of forming a new employer bargaining association. In Wyatt's view, the

existing bargaining format was unable to "come to grips with the real problems of the industry." In addition to those companies later to comprise the respondent association, Wyatt approached Georgia Pacific Corporation, Kimberly-Clark Company, Scott Paper Company, and Simpson Timber Company. TXD 7, L. 3-28.

By September 1962, Wyatt had engendered sufficient interest among several of the companies that subcommittees were formed to make in-depth studies of the feasibility of a new bargaining format. TXD 7, L. 30-38, L. 56-61. These studies took two directions:

(1) A company-by-company analysis of the labor agreements of the several interested companies to determine, in the words of Wyatt, "how complex and how difficult the process might be to physically bargain, to carry out the technicalities of bargaining" through a new multiemployer group. T. 404. TXD 7, L. 30-32.

(2) An analysis, again in Wyatt's words, of "the applicable law and findings and arguments made by other associations of this kind . . . and what the pros and cons were of various approaches to this bargaining problem." T. 405, TXD 7, L. 32-35, L. 56-61. Or as put, probably more precisely, on page 1 of the finished written analysis itself (G.C. 49):

The subcommittee's specific assignment was to study, analyze and report on the possibilities for a formal organization or association of the participants for bargaining collectively with the IWA and LSW, *specifically being bound together to the extent that a strike against one participant would be a strike against all participants*. Participants have expressed concern with regard to whether, or within what limitation, the law, as interpreted by the Board and Courts, would permit "*strike against all*" action. Presumably, some participants, at least, desire clarification of the status of the law prior to making the decision whether it wishes to associate itself with other participants in a "*strike against all*" agreement. [Emphasis added.]

This essentially legal analysis was produced at the hearing with the greatest of reluctance (T. 315-16), and only after repeated denials by Wyatt that such a document existed. T. 141-42. The manner in which it assessed various possible multiemployer bargaining techniques—exchange of information (p. 2), parallel bargaining (pp. 2, 3), joint bargaining (pp. 3, 4), and formal association (pp. 4, 5)—leaves no doubt, when coupled with the above passage from page 1 of the document, that the companies' interest in a new bargaining group was based solely on the potential of such a group to impart legitimacy, in appearance if not in substance, to employer treatment of strike action against one as against all for lockout purposes.⁷ The document stated with reference to the several multiemployer bargaining techniques:

Exchange of Information—

It is clear from existing cases that the mere exchange of information between companies would not suffice as any legal basis for treating a strike against one as a strike against all. (p. 2)

Parallel Bargaining—

Apart from group bargaining, as such, the U. S. Supreme Court has never ruled on the question of whether an individual employer has the legal right to use the lockout as the opposite of the union's right to strike. (p. 3)

Joint Bargaining—

To the extent companies bargain as a group with union acceptance, they are probably able to use the defense of a strike against one is a strike against all. However, the legal right would be strengthened if all companies were committed to accept the results of negotiations. (p. 4)

⁷ Revealing though this document is of the companies' purpose in structuring the association, the Trial Examiner dismisses it by footnote as a "subcommittee report which compared the advantages and disadvantages of various cooperative methods of employer bargaining." TXD 7, L. 56-61.

Formal Association—

From the legal standpoint a formal association is not necessary to rely upon the strike against one defense. There must, however, be an employer bargaining "group." To constitute a group it would be desirable to have a written arrangement of some form and this written arrangement should along with the bargaining action, meet the following criteria:

1. There should be a statement of the purposes and objectives of the group.
2. There should be an expression of authority given to the bargaining agent. In this situation it would be the group itself, whatever its name.
3. There should be joint participation in the negotiations by all companies concerned.
4. There should be a firm commitment to be bound by the results of the negotiations. (p. 5)

The companies apparently concluded, after weighing the subcommittees' completed studies in December 1962, that a new bargaining format was feasible. On December 14, they designated a committee to prepare a proposed draft of an organic agreement which, according to Wyatt, "would express the intentions of the concerned companies regarding the formation of a group for the purpose of bargaining collectively, especially with LSW and IWA." T. 421; TXD 7, L. 39-41. A series of proposed drafts of agreement followed, the first of which (R.243) was submitted for consideration on about January 22, 1963. T. 417. According to Wyatt, an acceptable draft (R. 206) was finally presented on April 12, 1963. TXD 10, L. 37.

In February 1963, the need for union agreement to any change in bargaining format being realized by the companies, Wyatt was instructed to obtain a reaction from LSW and IWA officials to the companies' developing thoughts about forming a new multiemployer group. TXD 7, L. 42-44. Wyatt resultantly met with Harvey Nelson, IWA president, on February 18 (TXD 7, L. 46) and with Earl Hartley, LSW executive secretary, on February 19.

TXD 8, L. 31. Only generalities were discussed at these meetings, "not details of the proposed association's structure or extent of authority." TXD 9, L. 7-9. When Wyatt asked for Nelson's "general, though certainly uncommitted, opinion as to what his reactions might be if such a group were formed" (T. 445), Nelson responded that he saw "nothing basically wrong or unsound in the ideas expressed by Wyatt."⁸ TXD 8, L. 24-25. Hartley replied that he would have to talk with some of his people before expressing a reaction to a new employer group. Three or four days later, after consulting with the LSW locals east of the Cascade Mountains, Hartley advised Wyatt by telephone that LSW "looked with favor" on bargaining with such a group. T. 465. TXD 8, L. 45, to TXD 9, L. 7.

At a February 27 meeting of company representatives, Wyatt reported the favorable reaction of Nelson and Hartley, and recommended that the companies consequently proceed to form the new association. TXD 9, L. 23-25. At the same meeting, however, Simpson and Scott, not wishing to join in a "strike against all" agreement (G.C. 49, p. 1), disclaimed further interest in the venture. This reduced the number of interested companies to six, and caused those six seriously to ponder the desirability of their creating a new association of so few members. TXD 9, L. 25-29. At length, in the expectation that 1963 negotiations with both IWA and LSW would have a high strike potential, they decided that some sort of "informal association" would be desirable. TXD 9, L. 33-39. They also decided to solicit the interest of Georgia-Pacific and Kimberly-Clark. TXD 9, L. 30-31.

As the April 1 deadline for opening negotiations approached, a new association was yet to materialize. The idea had not been abandoned, however, and the six companies met on March 25 to determine the issues on which

⁸ The Trial Examiner concedes that if Wyatt used the term "fully bound" to describe the proposed association to Nelson, Nelson may have understood him to mean simply that the proposed association, like TOC, intended to prevent more midnegotiation withdrawals of the sort experienced in 1961 TWA-TOC negotiations. TXD 7, L. 53, to TXD 8, L. 4. This accords with Nelson's statement that he saw the association as just another TOC. R. 396, p. 12.

each should open. The object was to assure opening uniformity on those issues—hours of labor, overtime, grievance procedure—which the six contemplated negotiating through the new association should it materialize. TXD 9, L. 59-61. Opening uniformity nevertheless was not realized. Only International and Weyerhaeuser opened per the March 25 meeting. U. S. Plywood failed to open at all for one of its operations, and none of its operations opened on all three designated issues. At the other extreme, St. Regis opened all articles of its contracts. TXD 10, L. 1-12. So, even before the association's birth, its prospective members were displaying the maverick tendencies later to betray the association's illusory nature.

A final prebargaining meeting was held among the six interested companies on April 12. It was learned at this meeting that Kimberly-Clark was not interested and that Georgia-Pacific was still undecided, whereupon U. S. Plywood expressed a lack of interest in participating in so small a group. Wyatt responded that, if U. S. Plywood backed out, the group would compose too small a segment of the industry to warrant Weyerhaeuser's participation. U. S. Plywood finally said it would participate if the rest of the six would do likewise, and a final draft of an association organic agreement (R. 206) purportedly was settled upon. TXD 10, L. 29-38.

Also during the April 12 meeting, the six companies arrived at a standard letter by which each of them would notify the LSW and IWA member locals of its delegation of bargaining authority to the association. TXD 11, L. 15-17. These letters, sent on and after April 17, uniformly advised that "the undersigned Company is a member of a voluntary multiemployer association" comprised of the specified six companies, after which they stated (TXD 11, L. 19. to TXD 12, L. 21):

. . . this Company hereby delegates to the association authority to bargain collectively on and with respect to any revisions of the existing agreements between your Union and this Company at its operations named in the attached list, pertaining to all matters which involve the wages, hours or other conditions of employ-

ment of employees of this Company represented by your Union at such locations, other than the subjects of (1) pensions, (2) union security, (3) health and welfare, and (4) those issues which have been customarily subject to local negotiations.

The subjects of pensions, union security, health and welfare, and local issues, and all matters pertaining thereto have been and are hereby specifically reserved and excepted from the delegation mentioned above, and if properly opened for bargaining, shall be subject to collective bargaining negotiations between your Union and this Company, separate and apart from any collective bargaining conducted between your Union and the association in accordance with the delegation aforesaid.

We further notify you that this Company through the association desires to change the terms of the said existing agreements with respect to (i) hours of labor, (ii) overtime, and (iii) grievance procedure, including, without limitation all matters relevant thereto.⁹

There was no hint in these letters that the association was possessive of power to bind its members to a common bargaining result. In this respect, they were in stark contrast to the preliminary draft from which they evolved. The draft (R. 11) contained the following language:

Each company has agreed to be bound by the results of these negotiations on all subjects negotiated by the Group

⁹ These letters were in notable disregard of the provisions of the association organic agreement purportedly reached on April 12, R. 206. They excluded both subjects of "general impact" (namely, pensions, union security, and health and welfare) and "local issues" without first obtaining union agreement to do so, thereby violating article 3(a) and (b) of the agreement. Similarly, Wyatt conceded that the companies disregarded article 4 of the agreement, which required each member desiring to reserve "local issues" for separate bargaining under article 3(b) to so notify the other companies. T. 115, L. 14-25. The companies' wholesale disregard of their own organic agreement, before and during negotiations, precludes any reasonable structuring of bona fides based upon that agreement.

Moreover, the letters as sent characterized the association as "voluntary," while that term was not in the preliminary draft. This combination of factors strongly suggests an abandonment by the companies of whatever earlier intentions they had to submit to binding multiemployer bargaining in 1963.¹⁰

At the close of the April 12 meeting, Wyatt informed Nelson by telephone that "it appeared we had an association in being or on the way." T. 528, L. 23-25; TXD 10, L. 40-42. Explaining Wyatt's "less than positive" manner on this occasion, the Trial Examiner concludes that "Wyatt's indefiniteness was dictated by caution . . . since the written agreement had not yet been signed." TXD 10, L. 53-61. The Trial Examiner presumably had in mind Wyatt's disclosure to Nelson during the same telephone call that U. S. Plywood was still uncertain whether to submit to group bargaining. T. 1449-40. Wyatt's self-doubts notwithstanding, he and Nelson agreed that negotiations would begin April 24, a date earlier set for negotiations between IWA and Weyerhaeuser. TXD 10, L. 21-27, L. 43-50. Wyatt also telephoned Hartley following the April 12 meeting. TXD 11, L. 7-10.

In addition to Wyatt's "less than positive" manner with Nelson, the inconclusiveness of the April 12 meeting is revealed by an April 17 letter (R. 19) from Wyatt to one John S. Brandis, a Georgia-Pacific vice president. That letter, in furtherance of the six companies' continuing hope to enlist broader participation in its venture, contained this language:

The joint bargaining relationship, which I have discussed with you, is moving forward. I *think* the group

¹⁰ Among the legal definitions of "voluntary" are:

(a) "Acting of oneself . . . without valuable consideration; gratuitous." Black, Law Dictionary 1746-47 (4th ed. 1951).

(b) "Acting, or done, of one's own free will without valuable consideration; acting, or done without any present legal obligation to do the thing done, or any such obligation that can accrue from the existing state of affairs." Webster, New International Dictionary 2858 (2d ed. 1951).

of companies have decided to bargain together on a joint basis in 1963. [Emphasis added.]

The association's organic agreement was circulated among the six companies for signing beginning April 15. The Trial Examiner found that the last signature was affixed April 22. TXD 11, L. 1-3. It is perhaps significant that, of the six signatures, those of St. Regis and U. S. Plywood were undated.

Among the provisions of the agreement were these:

Art. 3(1): The Companies hereby join together as a voluntary multi-employer association¹¹

Art. 3(5): the Companies shall bargain collectively as a multi-employer association and each member company shall participate in such negotiations. Whenever any decision must be reached pertaining to such negotiations, a favorable vote of 75% of the association membership shall be required.¹²

Art. 3(7): If as a result of negotiations on or with respect to subjects of bargaining delegated to the association, a strike is instituted by the union involved against any one or more of the association members or against any one or more of the operations listed in Exhibit "A" [a listing of the operations, with location and union involved, to be covered by the agreement], all other member companies of the association committed to such negotiations shall thereupon close the operations listed in Exhibit "A" in which the striking union is involved, in order to protect the entire membership of the association in its conduct of such bargaining negotiations.

¹¹ A comparison of the rough (R. 243, 247, 267) and final (R. 206) drafts of the association agreement discloses that, in addition to making a last-draft insertion of the word "voluntary" in their letters notifying the unions of the new association, the companies made a last-draft insertion of that word in the agreement.

¹² The early drafts of the association's organic agreement would have conditioned association action upon the concurrence of a simple majority. See R. 243, 247, 267.

3. 1963 IWA-Association Prelockout Negotiations.

The first IWA-association bargaining session was April 24, 1963. Succeeding prelockout sessions were April 25, 26, 29, 30, May 27, 28, 31, and June 4. Bargaining for the association was a committee consisting of one representative of each company. Wyatt was the spokesman. TXD 14, L. 13-18.

April 24: Wyatt opened the April 24 meeting by announcing that the association had been formed to bargain for the six companies in accordance with the form letters (TXD 11-12) by which each of the six had notified the IWA locals of its delegation of authority to the association. Wyatt said that the association was empowered to reach "binding agreement" on the issues of hours of labor, overtime, and grievance procedure. TXD 14, L. 22-29. Significantly, neither at this time nor later did Wyatt tender IWA a copy of the association's organic agreement. T. 1196.¹³

To Harvey Nelson, the IWA spokesman and a veteran of more than 25 years of bargaining (T. 1409), Wyatt's opening representations regarding the new association's power posed more questions than they resolved. He asked if an association settlement would be binding upon U. S. Plywood. TXD 14, L. 29-34. He was puzzled that, while its several operations failed to open on hours of labor, overtime, and grievance procedure, U. S. Plywood later adopted the standard letter (TXD 11-12) that it had delegated to the new association authority to bargain those three issues.¹⁴ Nelson also asked how an association settlement would affect St. Regis, since St. Regis opened every

¹³ Yet, by letter to their employees upon instituting the lockouts, the companies explained that their action was "pursuant to the agreement of the association between the member companies of which your negotiating committee has had actual knowledge since the first negotiating meeting" [Emphasis added.] See, e.g., R. 211, p. 2.

¹⁴ Although none of U. S. Plywood's operations made timely openings on all of the issues which the standard letters indicated they wanted negotiated through the association, IWA was not only willing (TXD 42, L. 55) but *insistent* that U. S. Plywood—and the other companies—negotiate those issues to a uniform result at the association level if the association was to consider itself a multiemployer bargaining unit.

article of its several contracts with IWA locals. TXD 14, L. 34-35.

Nelson's healthy skepticism concerning Wyatt's assurances of the association's binding power did not stem entirely from the opening postures assumed by U. S. Plywood and St. Regis. Still large in Nelson's memory, in addition to Wyatt's "less than positive" manner in the April 12 telephone conversation, was IWA's unhappy 1961 bargaining experience with TOC, when Crown Zellerbach, Rayonier, and U. S. Plywood forced IWA to negotiate separate settlements with each by pulling out of TOC in midnegotiations. Nelson wanted forewarning if a similar debacle was in prospect for 1963. TXD 14, L. 35-38.

Unable to answer Nelson concerning the effect of an association settlement on U. S. Plywood and St. Regis, Wyatt requested a caucus. That over, Wyatt again asserted that an association agreement would bind its members, obviating any need for IWA to renegotiate with individual companies or plants issues settled in association bargaining. TXD 14, L. 40-42. Nelson remained skeptical of Wyatt's general assurances, insisting upon a specific clarification of each company's openings. Wyatt, at last forsaking his glib assurances of binding authority, admitted that:

... they were not able at that time to give an answer relative to the U. S. Plywood openings but they would give it further study over the evening and would talk about it the following day. T. 1456, L. 18-21.

And, with reference to the St. Regis openings, Wyatt could only say that St. Regis would give IWA a "direct reply."¹⁵ T. 1456, L. 23; TXD 14, L. 42-47.

Nelson's inquiries concerning the association's authority were thus placed in abeyance until the following meeting. T. 1456. The parties then proceeded to a brief presentation

¹⁵ On April 29, 1963, St. Regis clarified its position by letter (R. 61) stating: "No amendments or revisions in the working agreements are requested at this time by the Company other than those requested by our Association."

of their substantive bargaining demands before adjourning. TXD 15, L. 1, to TXD 16, L. 27.

April 25: Perhaps because of the difficulties caused by Nelson's questions of the previous day, the association delayed the April 25 meeting from 9:30 a.m. until the afternoon. TXD 16, L. 29-31.

Wyatt opened the meeting by conceding that hasty formation of the association had created some conflict in bargaining authority, but promised that this situation would not recur in future years' negotiations.¹⁶ TXD 16, L. 31-34. A U. S. Plywood representative admitted, regarding some of its operations, that U. S. Plywood would insist upon negotiating the hours of labor issue at the local plant level despite its adoption of the standard letter (TXD 11-12) expressing a desire to bargain that issue at the association level. TXD 16, L. 36-37. See also, G.C. 75, p. 5. Nelson replied that he regarded this as a change in position from the previous day, when Wyatt contended that the employer group had present authority to reach a binding settlement on all issues designated in the standard letters as delegated to the association. Nelson then repeated his insistence of the day before that all negotiations on the same subject matter take place at one time and place. TXD 16, L. 37-39.

After brief consideration of certain of the association's bargaining demands, the meeting closed with Nelson again demanding that the association clear up the confusion surrounding its authority. TXD 16, L. 41-47.

April 26: Wyatt opened the April 26 meeting by apologizing for the conflicts in employer bargaining authority, and again assured Nelson that there would be no such conflicts in future negotiations. TXD 16, L. 49-51. This

¹⁶ Wyatt's assurances that there would be no conflicts of authority in future years bore ironic consistency with an intracompany memorandum, dated May 6, 1963 (G.C. 43), distributed among Weyerhaeuser supervisors by one Kronenberg, the manager of Weyerhaeuser's Springfield, Oregon, operation. This memorandum, based on information obtained by Kronenberg while attending the IWA bargaining sessions (T. 1277, L. 19, to T. 1278, L. 2), stated in part: "This agreement which was signed with these six companies [i.e., the association's organic agreement] only covers the 1963 bargaining sessions at present."

apology-promise routine did no more to appease Nelson than it had the day before. Nelson's dissatisfaction resulted in a protracted but futile exchange of proposals and counterproposals by Wyatt and Nelson designed to resolve the problem of conflicting employer bargaining authority. TXD 16, L. 52, to TXD 18, L. 2.

During a break from the April 26 meeting (TXD 17, L. 50-57), Nelson's swelling suspicion that the new association was but a replica of its shapeless forebears was confirmed once and for all. Wyatt approached Nelson and, explaining that he was having great difficulties in holding the new association together, beseeched Nelson to drop his demands that the association obtain blanket authority on the issues to be bargained jointly. Wyatt expressed particular fear that U. S. Plywood would defect from the association if Nelson were to persist. The telling import of this incident is obviously lost on the Trial Examiner, but he properly characterizes it nevertheless (TXD 47, L. 15-20):

It appears to me that all that Wyatt was saying to Nelson . . . was that, if Nelson pushed too hard to eliminate U. S. Plywood local openings . . . as a condition to recognition of the Association as a multi-employer bargaining unit, *U. S. Plywood might withdraw and bargain on the previously established company basis.* [Emphasis added.]

A debacle similar to that of 1961, when U. S. Plywood and two others withdrew from TOC in midnegotiations, was indeed in prospect for 1963.

As the April 26 meeting neared adjournment, nearly 3 days had been consumed in a fruitless effort to centralize the association's authority and thereby eliminate the prospect of having to renegotiate the issues at different levels. By then seeing the association as not different from TOC, Nelson suggested that the parties set aside for a time the matter of association authority and proceed to a discussion of substantive issues. He felt that a tentative agreement on substantive issues that was fair to all concerned would

tend to the agreement's being generally acceptable. As Wyatt testified (T. 603, L. 22, to T. 604, L. 3):

Nelson proposed that we set all of this matter aside . . . and get on with the bargaining, get on with the show, in effect, between the association and Western Regional Negotiating Committee, and if we have anything left at the end we could face that when we get to it and reach some conclusion at that time.

See also, TXD 18, L. 2-9.

Ignoring the context of the situation and Nelson's use of the term "set aside," or words to that effect,¹⁷ the Trial Examiner infers that LSW agreed to recognize the association as a multiemployer bargaining unit coincident with this proposal by Nelson. TXD 50, L. 30-33.

Subsequent prelockout meetings: IWA and the employer group met thereafter April 29 and 30, May 27, 28, and 31, and June 4. In accordance with the April 26 understanding to set aside for a time the problem of the association's authority, the parties discussed in these later prelockout meetings the several substantive issues before them. But accord on those issues proved as unattainable as accord concerning the association's authority. TXD 18, L. 23, to TXD 19, L. 32; TXD 20, L. 23, to TXD 21, L. 36. On June 5, IWA struck certain operations of St. Regis and U. S. Plywood. TXD 21, L. 36-37.

On June 5, after the strike had begun, Wyatt informed Nelson that the companies were to meet that afternoon to decide their next move.¹⁸ TXD 21, L. 52-55. Their next

¹⁷ Wyatt twice testified that Nelson used the term "set aside." T. 603, L. 23; T. 1289, L. 9.

¹⁸ Wyatt initially testified that he visited Nelson on June 4—before the strike—to forewarn Nelson that if IWA struck part of the association, the rest certainly would close down. TXD 21, L. 39-52. Under cross-examination, Wyatt adhered for a time to this story. T. 1257, L. 20-22. Finally, in conformity with Nelson's testimony (T. 1500-03), Wyatt conceded that he had engaged in no prestrike conversations with Nelson regarding the lockout implications of the threatened strike action. T. 1259. Ignoring this and similar inconsistencies and contradictions, the Trial

move was made June 6. The nonstruck members of the association—Crown Zellerbach, International, Rayonier, and Weyerhaeuser—locked out their IWA-represented employees beginning that day. The companies claimed “that the reason for the closing of their plants was to protect their group solidarity against selective strikes.” TXD 31, L. 14-16.

4. *LSW-Association Prelockout Negotiations*: The first LSW-association bargaining session was May 9, 1963. Succeeding prelockout sessions were May 10 and 22, and June 3.

May 9: At the outset of the May 9 meeting, Daniel Johnston, who was the LSW spokesman along with Earl Hartley, announced that LSW was “not recognizing” the new association until certain questions concerning the association’s nature and functions were satisfactorily¹⁹ answered. TXD 23, L. 3-7, L. 51.

Johnston quickly ascertained from Wyatt, who was the association’s spokesman in the LSW negotiations as well as those with IWA, that a written association organic agreement was in existence and that it contained a strike-against-one, strike-against-all provision. Strangely, however, Wyatt refused Johnston’s request for a copy.²⁰ TXD 23, L. 8-14.

Though withholding a copy of the association’s organic agreement, Wyatt represented that the companies had

Examiner nevertheless relies on Wyatt’s testimony. See, e.g., TXD 10, L. 60-61; TXD 21, L. 49-50; TXD 41, L. 7-11.

¹⁹ Relying upon tortured logic and the absence of the word from the demonstrably incomplete minutes of LSW Recording Secretary Prusia, the Trial Examiner doubts Johnston’s testimony that he used the word “satisfactory.” TXD 23, L. 51-55. Thus, the Trial Examiner reasons: “I doubt that this word would be used because it would permit no alternative decision by LSW if most answers were satisfactory but one or more others were not.” TXD 23, L. 53-55. Elsewhere, too, the Trial Examiner places undeserved reliance upon Prusia’s minutes. See TXD 24, L. 40, to TXD 25, L. 58; TXD 34, L. 53-55.

²⁰ Occasioning this remarkably prophetic exchange between Johnston and Wyatt (T. 1145-47; T. 1802, L. 14-20):

Johnston: I suppose if something happens and we get in a hearing over it, we will get a copy that way.

Wyatt: Well, that is one way of getting it.

grouped together for bargaining purposes, and that each of them would be obliged to amend its individual contracts to conform with any settlement reached through association bargaining.²¹ TXD 23, L. 17-20. Johnston immediately called to Wyatt's attention two respects in which his representation concerning the association's power to bind was obviously false. Johnston pointed out that the association could hardly compel conformity with an association settlement when:

(a) The six companies refused to delegate to it authority to bargain such basic issues as pensions, health and welfare, and union security. T. 1805, L. 5-19; T. 1806, L. 6-24; TXD 23, L. 23-27.

(b) St. Regis refused to delegate to it authority to bargain any issues on behalf of St. Regis's operations at Libby, Montana, and Klickitat, Washington, and U. S. Plywood acted similarly concerning its operations at Polson, Montana, and Douglas City, California, although the LSW Western Council was the authorized bargaining representative at all four operations. TXD 23, L. 34-37.

As Johnston explained, these exclusions from association bargaining of certain issues and certain operations, if permitted to stand, would necessarily compel LSW to engage in repetitions, multi-level bargaining. TXD 25, L. 40-41. Johnston further explained that the exclusion of certain operations from association bargaining was objectionable because it would render those operations highly vulnerable to rival-union raids and decertifications. He then demanded a master contract embracing all issues and all locals within the LSW Western Council to eliminate this vulnerability and the need for multilevel bargaining. TXD 24, L. 1-6; TXD 52, L. 28-40.

The association caucused to consider Johnston's demand, after which Wyatt announced that the association could not

²¹ In addition to his concealment of the association agreement, Wyatt concealed that Rayonier, although having no bargaining relationships with LSW, had a voice in LSW negotiations. See G.C. 76, p. 16—the notes of association Secretary E. M. Boddy—wherein it is disclosed that, on June 4, 1963, Rayonier voted on whether to increase the wage offer to LSW.

modify its position on either the geographic or the subject-matter exclusions. TXD 24, L. 9-12. Wyatt argued in support of both types of exclusions that the association was powerless to expand the delegations made to it by the individual companies.²² TXD 24, L. 14-15, L. 24-25; L. 54-56. With regard to the geographic exclusions, he also argued that negotiations involving plants east of the Cascade Mountains traditionally had been separately conducted. TXD 23, L. 37-41. Johnston assured Wyatt that LSW absolutely would not alter its position, either as to issues (R. 400, p. 4) or operations. TXD 24, L. 32-34. Wyatt responded that the association was similarly adamant. TXD 24, L. 34-36.

Despite the mutual obstinacy manifest from the foregoing, the Trial Examiner finds that, early in the May 9 meeting, LSW agreed to recognize the association as a multiemployer bargaining unit. TXD 28, L. 52-54; TXD 24, L. 40, to TXD 25, L. 58. He grounds this finding on a May 9 remark by LSW's Hartley "about having got rid of the technicalities" (TXD 26, L. 6-7; TXD 52, L. 49-60), and on a portion of the May 9 minutes of Ted Prusia, LSW recording secretary. The Trial Examiner's confidence in Prusia's minutes is such that he describes them to "read very much as though he had taken down the discourse in shorthand or speedwriting." TXD 27, L. 58-60.

The reliance upon Prusia's minutes is misplaced. A reading of the extract relied upon (TXD 24, L. 47, to TXD 25, L. 51) gives no hint of a softening of position by LSW. And, contrary to the Trial Examiner's likening of those minutes to a "shorthand or speedwriting" transcript, the extract in question is demonstrably and crucially incomplete. Prusia did not even pretend to record the May 9 discussion of geographic exclusions. Instead, he merely wrote: "Discussion on plants excluded." TXD 25, L. 12. In the face of that entry, there is no explanation for

²² This argument ignored the terms of the association's organic agreement (R. 206), which conditioned the exclusion of bargaining issues upon the consent of the affected union.

the Trial Examiner's finding of LSW agreement to recognize the proposed association unit.²³

Prusia's stenographic limitations aside, the extract of the May 9 meeting set out by the Trial Examiner is fatally incomplete. A comparison of that extract with a true copy of Prusia's minutes (R. 400) discloses that, far from reflecting an uninterrupted colloquy as it purports to do, the extract is in fact a fusion of pages 4 and 6 of the true minutes. Without so much as a deletion symbol, the Trial Examiner edited out page 5. This is unfortunate, for the omitted page forcefully establishes the contrary of what he infers from pages 4 and 6. Page 5, moreover, imparts to Hartley's "technicalities" remarks a construction wholly irreconcilable with an inference of LSW agreement to the proposed association unit.²⁴

Page 5 begins by quoting Hartley as follows:

Now that we have the technical points discussed, let's get down to the issues. *We are not going to throw the plants east of the Cascades to the wolves.* [Emphasis added.]

Thereafter, page 5 quotes Hartley as saying that "we are not going to split our forces," and that "we cannot agree to negotiate for just some of the plants. . . ." It quotes Johnston to like effect, notably so in his page-ending summation that, regardless of association efforts to exclude the three operations east of the Cascades, LSW will be speaking for *all* our locals"²⁵ [Emphasis added.] and, in addition, would not recognize the association unit if the association persisted in its subject-matter exclusions.

²³ The inconclusiveness of Prusia's minutes further shows in an extract of the May 22 minutes which is quoted by the Trial Examiner (TXD 28, L. 18): "Wyatt: Well, let's bargain then. (*Discussion*)" [Emphasis added.]

²⁴ For reader convenience, the omitted page 5, together with pages 4 and 6 of Prusia's minutes of the May 9 meeting, is appended to this brief as Exhibit A.

²⁵ Similarly, the association minutes of the May 9 meeting (G.C. 59, pp. 1-2) quote Johnston as saying at this point that "when the Union speaks it will be speaking for all of the locals without exception."

In short, Prusia's stenographic shortcomings and the omitted page 5 thoroughly invalidate the Trial Examiner's findings of a May 9 LSW agreement to recognize the association as a unit.²⁶

Soon after the portion of the May 9 meeting reported on page 5 of Prusia's minutes, LSW furnished two letters to the association, further indicating to the Trial Examiner that LSW had agreed to a new multiemployer bargaining basis. TXD 52, L. 51-52, 58-59. One, dated April 11, 1963 (R. 200), expressed LSW's belief that "changes in collective bargaining procedures" were needed because of various "changes in the lumber industry in recent years." It concluded with a suggestion that "joint multiemployer bargaining is a desirable approach to an overall industry problem. . . ." The other letter, dated May 8, 1963 (R. 207), stated that a delegation of authority had been made to the LSW Western Council, from its member locals, to bargain with the new association:

... the Western Council has been authorized to represent the Lumber and Sawmill Workers Local Unions and District Councils in collective bargaining with the Multiemployer Association. . . .

It is worthy of note that these letters, while expressing LSW's desire and authority to bargain on a multiemployer basis, did not express agreement by LSW to recognize the so-called association unit. In fact, by naming the locals east of the Cascades in its enumeration of locals for which LSW was bargaining, the letter dated May 8 (R. 207) signified quite the opposite. See TXD 22, L. 43-54.

After the two letters were furnished, Johnston outlined LSW's bargaining demands. Foremost among these demands was one for a master contract "to give the union the protection of a unit." TXD 26, L. 33-39. This, of course, mirrored LSW's continuing insistence that the as-

²⁶ That LSW would agree, on May 9 or anytime, to exclude the plants east of the Cascades is also belied by Hartley's refusal to react even tentatively to the ideas expressed by Wyatt at their meeting of February 19, 1963, without first consulting the locals east of the Cascades. See TXD 9, L. 1-3.

sociation bargain for all operations on all major issues. See TXD 52, L. 11-40. Johnston explained that, from the LSW point of view, a master contract, by lessening LSW vulnerability to rival-union raids and decertifications, was an indispensable concomitant to the association's strike-against-one, strike-against-all scheme. G.C. 76, p. 3. Apart from self-protection, Johnston pointed out, a greater bargaining stability would result, subserving the mutual objectives of labor and management to meet the long-range problems of the industry. T. 913, L. 22; T. 1811, L. 1-4; G.C. 76, p. 3; G.C. 59, p. 3.

May 10: Consistent with his finding, based on the misstatement of Prusia's minutes, that LSW on May 9 agreed to recognize the proposed association unit, the Trial Examiner also misinterprets the succeeding LSW-association meetings.

He concedes that both Wyatt and Johnston testified that the May 10 meeting dealt further with the problem of geographic exclusions. Yet, deciding that the normally sure-tongued Wyatt was "confused"²⁷ (TXD 27, L. 6) and that Johnston was "mixed up" (TXD 27, L. 14) between the meetings of May 9 and 10, the Trial Examiner concludes that the problem of geographic exclusions was not discussed on May 10. TXD 27, L. 25-28. Even the Respondents, in their brief to the Trial Examiner (p. 29), admit that Wyatt on May 10 reiterated "the Association's position on the geographic area to be covered by the bargaining."

This admission by the Respondents is supported by the Trial Examiner's own finding (TXD 27, L. 16-20) that, during a caucus in the May 10 meeting, Wyatt saw reason to show to the LSW spokesmen the following telegraphic

²⁷ Although judging Wyatt as "disposed to be careful in his choice of language" (TXD 41, L. 8-9) and not "the kind of man to make a positive statement about something that depended on the decision of others" (TXD 21, L. 49-50), the Trial Examiner at other times characterizes Wyatt's sworn testimony as "confused," "mistaken" (TXD 25, L. 61), or as not "literally correct" (TXD 21, L. 44-48) when his analysis so requires.

directive, dated May 10, from St. Regis's New York headquarters (R. 208):

URGENTLY REQUEST THAT YOU MAKE ABSOLUTELY CLEAR TO MR. HARTLEY AND OTHER UNION REPRESENTATIVES YOUR COMMITTEE HAS ABSOLUTELY NO AUTHORITY TO BARGAIN FOR ST. REGIS PAPER COMPANY FOR ITS LOCATIONS WHOSE EMPLOYEES ARE REPRESENTED BY THE LUMBER AND SAWMILL WORKERS UNION AT ITS LIBBY-TROY, MONTANA LOCATIONS, OR ITS KLINKITAT, WASHINGTON LOCATION. THESE CONTRACTS ARE SEPARATE AND WILL BE NEGOTIATED SEPARATELY AT THE PROPER TIME INDIVIDUALLY AT THE LOCATIONS MENTIONED ABOVE.

EDWARD J. MCMAHON DIRECTOR INDUSTRIAL RELATIONS
ST. REGIS PAPER COMPANY

After the caucus, the parties continued to treat with the matter of geographic exclusions, the Trial Examiner notwithstanding. As Wyatt testified, without the slightest hint of confusion (T. 934, L. 8-21):

When I did show this telegram, whenever that was in the day, to Mr. Hartley and Johnston, this was in a caucus and when we resumed they made some statements about the fact that they were there representing all locals who had contracts with Association member companies and I replied any answer I give would only be on behalf of the operations mentioned in the various letters to the union by the various member companies and that I was not representing any others. . . . I remember saying you may be speaking for a lot of others, but I am only listening for the ones the Association represents.

May 22: The Trial Examiner finds that Johnston, in the May 22 meeting, "continued his attempt to get something in the nature of a master contract for unit protection." TXD 27, L. 40-41. As he had in past meetings, Johnston "challenged the authority of the Association to even bargain on the issue of master contracts." TXD 27, L. 43-44.

The meeting closed after 52 minutes (R. 402, pp. 1-3), with each side proclaiming rigid adherence to its previous position. G.C. 76, p. 6; R. 402.

June 3: The June 3 meeting—the last before the lock-outs—was conducted with the assistance of the Federal

Mediation and Conciliation Service. TXD 28, L. 31-32. Articulating LSW's position for the mediator, Johnston again advanced LSW's tit-for-tat reasoning on the master contract issue. TXD 28, L. 34-35, L. 38-47. As Johnston testified (T. 1835, L. 24, to T. 1836, L. 14):

I pointed out that the companies wanted to form an association to give them the right of considering a strike against one is a strike against all and that the union had to take the same position, that we wanted a unit that protected us against [raids] or singling out of one local here and there by some other means.

I stated . . . that *we could not recognize* the Association as a bargaining group unless they would give us equal treatment and agree to a master contract, at least with sufficient points in it to provide protection that we wanted in return for giving them the protection against the union's previous policy of selective strikes of one company at a time. [Emphasis added.]

Wyatt remained firm in his rejection of LSW's master contract proposals. TXD 29, L. 2-6.

In yet another instance of avoiding conflict with his finding that LSW on May 9 accepted the bargaining area outlined by the association, the Trial Examiner again misreads the record. He intercepts the above-quoted Johnston testimony concerning the June 3 meeting

. . . to be a report to the Mediator of what Johnston believed had taken place at prior meetings, with the Association, including the one on May 9, and . . . not . . . a statement that this was the attitude of LSW as of May 22. . . . I find that a refusal to recognize the Association was not the position of the LSW after the first part of the meeting on May 9. TXD 28, L. 48-54.

The Trial Examiner's dismissal of Johnston's June 3 remarks as of purely historical import flouts the circumstances in which they were made. Prussia's minutes of the June 3 meeting (R. 403, p. 1) reveal that, immediately

before Johnston made his remarks, the mediator had requested "both sides to state their position *as of this morning*." [Emphasis added.] Or, as captured in the association's minutes (G.C. 76, p. 10), the mediator's request was to this effect: "Not waste time on history—asked each side to state *present position*." [Emphasis added.]

Following the formal bargaining session on June 3, Wyatt met privately with Johnston and Hartley. TXD 29, L. 19-21. Johnston asked Wyatt if the companies would lock out if any of them was struck. Wyatt answered that "he did not know even what his own company would do." TXD 29, L. 27-29. During this same conversation, Wyatt dispelled any lingering faith Johnston and Hartley may have had in his earlier claims that the association could bind its members. Reconstructing the conversation while under oath in a California Unemployment Compensation hearing pertaining to the lockouts, Wyatt testified, in response to a question from his counsel, that he told Johnston and Hartley (G.C. 42, p. 86):

... one member, the way the association was constituted, could prevent any given action on the part of the association as such on collective bargaining action.

The Trial Examiner disregards this testimony, characterizing it as "mistaken." TXD 41, L. 37. He supports this characterization by finding (TXD 41, L. 38-44):

... later in Wyatt's testimony at that hearing, he corrected himself by stating that two negative votes would be needed to bar an action by the Association. Furthermore, it is not difficult, when one is thinking of a number of affirmative votes needed to carry a decision—5 out of 6 (or, in the case of LSW, 4 out of 5)—to confuse this difference of one with the negative number of votes required to defeat an action—actually two.

In advancing this analysis, the Trial Examiner once again mistakes the record. It is true that, later in the California hearing, Wyatt made a muddled try at redemption along

the lines suggested by the Trial Examiner. G.C. 42, p. 92. However, when reexamined by Johnston yet later in that hearing, Wyatt testified much as he had originally that, except for the lockout provision, the association agreement was window dressing (G.C. 42, pp. 137-38):

Q. (By Johnston) Then did I not ask you, "Are you certain that each company is bound to this agreement?" *And did you not respond to me that any one company may abrogate the agreement?* [Emphasis added.]

A. (Wyatt) I did not, Dan, not with respect to the lockout, not with respect to the lockout.

Q. With respect to what then?

A. *Almost everything else in the association, any action any action to make an offer, not to make an offer, to be down a point, to do almost anything an association does in the normal conduct of collective bargaining. . . .* [Emphasis added.]

When confronted in the present hearing with a transcript of the California hearing, Wyatt did not attempt a mitigating explanation (T. 1230, L. 6-16):

Q. (By Mr. Byrholdt) Mr. Wyatt, you have had an opportunity have you not, to examine pages 135 through 139 of the California Unemployment transcript of August 26 and 27, 1963?

A. Yes.

Q. That is substantially accurate of your testimony, is it not?

A. Well, *I have no basis on which to doubt it.* It says what it says. [Emphasis added.]

Q. You have read those pages, have you not?

A. Yes.

Mr. BYRHOLDT: I will offer that in evidence.

Wyatt even rejected several "explanations" proffered for him by the Trial Examiner, including those in the above

extract from the Trial Examiner's decision. T. 1231, L. 9, to T. 1232, L. 12; T. 1326, L. 7-9. It does not comport with the Trial Examiner's assessment of Wyatt as "disposed to be careful in his choice of language" (TXD 41, L. 7-9) that Wyatt would make the same "mistake" twice in the California hearing, then fail to correct it when the opportunity arose in the present hearing.²⁸ Wyatt's testimony in the California hearing obviously was not mistaken.

After their conversation with Wyatt on the evening of June 3, Johnston and Hartley saw Otis Hallin, a Crown Zellerbach vice president, and further inquired of the companies' lockout plans. Hallin answered that "Crown Zellerbach was committed to the lockout provided the other companies did likewise." TXD 29, L. 36-38.

On June 5, LSW struck certain operations of St. Regis and U. S. Plywood (TXD 30, L. 7-9), and, beginning June 7, Crown Zellerbach, International, and Weyerhaeuser responded by locking out their LSW-represented employees.²⁹ TXD 31, L. 18. The companies' explanation of these lockouts matched their explanation for locking out IWA-represented employees: "to protect their group solidarity against selective strikes."³⁰ TXD 31, L. 14-16.

²⁸ So total was Wyatt's default that the Respondents, in their brief to the Trial Examiner, did not so much as mention the matter, let alone try to explain it away.

²⁹ In spite of the June 3 equivocation of both Wyatt and Hallin concerning the companies' lockout plans, the Trial Examiner concludes that "at the time of the strike, LSW was accepting, as inevitable, the prospect of a lockout." TXD 53, L. 4-5. Then he promptly contradicts himself: "It is clear . . . that the strike was intended by LSW . . . to produce the least economic suffering by its members. Working members were encouraged to finance strikers. *This financing could only be accomplished if a substantial portion of the LSW members continued to work.* Hence, the limited scope of the strike." [Emphasis added.] TXD 53, L. 7-12.

³⁰ See page 15, *supra*.

5. IWA-Association Negotiations During Lockouts.

While the lockouts were in effect, IWA-association bargaining sessions were held June 18 and 27, after which IWA and LSW jointly bargained with the association July 15 and August 12 and 13. Settlement covering both unions was reached August 13. All these sessions were officiated by the Federal Mediation and Conciliation Service.

June 18: At the June 18 meeting, which was attended only by Nelson, Wyatt, and the mediator, the problem of the association's authority was characterized by Nelson as a "real serious" obstruction to fruitful bargaining. To draw from Nelson's testimony (T. 1491):

I . . . emphasized the position of IWA that I had been emphasizing throughout, that we would not negotiate at more than one level, come what may We would not negotiate with U. S. Plywood at separate locations on hours of labor or on separate hours of labor openings with them differently at the association level than what the other five employers were bargaining for on the hours of labor.

See also TXD 31, L. 34-36. Wyatt expressed the hope that they "find a solution somewhere" to the problem of the association's authority. T. 1491, L. 11-16.

June 27: Nelson at the June 27 meeting repeated his objection to the conflicts in bargaining authority between U. S. Plywood and the association. TXD 33, L. 5-6. This occasioned the following entry by Wyatt in his notes of the June 27 meeting: "Until local openings settled our [companies'] position today *can't be taken as a 6 co. position.*" [Emphasis added.] G.C. 52, p. 3.

In answer to Nelson's inquiry—which by then had become a ritual—whether the association had worked out the problem with U. S. Plywood, Wyatt made an admission startling in candor but otherwise redundant in light of the association's earlier conduct (G.C. 56, p. 4):

. . . we only want to change contracts that have lesser provisions than we are now asking.

See also G.C. 75, pp. 27-29. Later in the June 27 meeting, Marshall Leeper, a U. S. Plywood official and a signator of the association's organic agreement, expanded somewhat upon Wyatt's admission, saying that U. S. Plywood would submit to association bargaining "in the black and gray areas," but that otherwise it would negotiate at the local plant level. T. 1493, L. 18, to T. 1494, L. 4; G.C. 56, p. 5.

When Nelson asked what was meant by "black and gray areas," Leeper explained that the phrase contemplated those issues on which the association more or less shared U. S. Plywood's bargaining goals. T. 1494, L. 7-16; TXD 33, L. 10-12. U. S. Plywood, Leeper noted, had no intention of compromising any competitive advantage it then enjoyed by entrusting its already desirable contract terms to association bargaining. T. 1413, L. 3-10; T. 1465, L. 9-21. Thus, even well after the strike and lockouts began, U. S. Plywood stood firm in the repudiation of its previously announced delegation to association bargaining of "(i) hours of labor, (ii) overtime, and (iii) grievance procedure, including *without limitation* all matters relevant thereto." [Emphasis added.] TXD 12, L. 3-5.

Needless to say, Wyatt's admission and Leeper's elaboration thereon did not render the U. S. Plywood situation any the more palatable to Nelson.³¹ He once again proclaimed IWA's refusal to submit to a scheme inevitably resulting in multilevel bargaining of the same issues. TXD 33, L. 12-15. The meeting closed without a change in position by either side. TXD 33, L. 35.

The joint IWA-LSW-association negotiations that followed are treated under a separate caption, *infra*.

6. LSW-Association Negotiations During Lockouts.

While the lockouts were in effect, LSW-association bargaining sessions were held June 18, July 1 and 15, and August 12 and 13, before settlement was finally reached. All of these meetings were conducted by the Federal Media-

³¹ The Respondents failed to call Leeper or anyone else from U. S. Plywood to the witness stand. Since U. S. Plywood's deviate conduct throughout 1963 negotiations is of utmost relevance to the solidarity issue, that failure was singularly conspicuous.

tion and Conciliation Service and, as previously stated, those on July 15 and August 12 and 13 were joint LSW-IWA-association undertakings.

June 18: The June 18 LSW-association meeting was attended only by Hartley, Wyatt, and the mediator. Hartley and Wyatt stated their positions, from which neither would yield. TXD 32, L. 15-51.

July 1: At the July 1 meeting, Johnston advised the companies that, because of the lockout, LSW was no longer interested in exploration of a contract with the proposed association unit. Following is Johnston's testimony (TXD 34, L. 30-40):

I stated on behalf of the Lumber and Sawmill workers, that we were now in a lockout position; that we were not going to meet with the Association as such while our members were being locked out; but they were only there to meet with the five companies as individual companies with whom we had contracts. I stated again our position of desire of negotiating an Association contract covering all areas and all issues but that we were locked out and we were not going to continue that exploration; that there must come an end to that kind of discussion. The end of that discussion came with a lockout.²²

During the same meeting LSW distributed letters to the company representatives to much the same effect; namely, that it regarded the association "as nothing more or less than the agent of each of the respective employers." TXD 35, L. 23-40. Wyatt responded that the companies had, "in the meetings to that point, been bargaining as an association, that they were there that day only as an association, and unless the union was willing to meet with them as an association there was nothing to meet about." TXD 35, L. 6-10.

²² Still relying on Prusia's sketchy minutes, the Trial Examiner doubts Johnston's testimony that he used the word "exploration." He reasons that "the word 'exploration' does not appear" in the minutes. TXD 34, L. 53-55.

7. Joint IWA-LSW-Association Negotiations.

As previously stated, joint IWA-LSW-association meetings were held July 15 and August 12 and 13, culminating in settlement.

The July 15 meeting consisted largely of an exchange of letters among the parties. TXD 36, L. 25, to TXD 37, L. 12. The substance of the IWA and LSW letters was that each perceived the association as nothing more than the designated bargaining agent for the several separately bargaining companies. Wyatt's responding letter, which had been prepared during a caucus following receipt of the IWA and LSW letters, read in part (TXD 37, L. 9-12):

The Association is unable to accept these conditions but is willing to continue meeting on the only basis upon which this Association has authority to meet with you.

The association thereafter tendered a "settlement agreement," which was promptly rejected. That ended the meeting. TXD 37, L. 19-26.

On August 2, before another bargaining meeting and with the strikes at St. Regis and U. S. Plywood in full force without hint of termination, the Respondent companies decided to end their lockouts of both the IWA- and LSW-represented employees as of August 7. TXD 37, L. 38-44. The strikes remained in effect until after contract settlement was reached on August 13. The pretext for the premature ending of the lockouts was (R. 362-A):

... the recent combination of circumstances no longer requires the necessity of a shutdown in order to preserve the integrity of the Association.

The "recent combination of circumstances" was not meaningfully articulated by Wyatt (T. 835, L. 3, to T. 838, L. 13), nor is it by the Trial Examiner. TXD 38, L. 5-9.

The joint IWA-LSW-association meeting of August 12 opened with both unions repeating their conception of the

association as merely a bargaining agent for several separately bargaining companies. TXD 38, L. 25-27. Wyatt replied that "there was only one basis on which his committee could be there and that was as an association composed of six members and not as six individual companies." TXD 38, L. 30-32. The meeting was shortly adjourned.

As earlier stated, settlement was reached in the joint IWA-LSW-association meeting of August 13. When settlement was imminent Wyatt proposed inclusion of the following language in the signature page of the memorandum of settlement (IWA 5):

In witness whereof, the union . . . and the association (. . . a multiemployer bargaining group) having agreed to bargain and having bargained collectively . . . and having reached understanding and agreement as a result of negotiations on such basis and deeming it to the mutual advantage and benefit to the association and the union to continue this relationship voluntarily execute this agreement this — day of August, 1963.

Wyatt admitted this to be an after-the-fact effort to impart legal coloration to the lockouts.²³ TXD 38, L. 48-50. Following is his testimony (T. 862, L. 20, to T. 863, L. 4):

I made a proposal of certain language that I would like to embody in a settlement agreement. In proposing it, I was concerned with the unfair labor practice charges. . . . I did not suggest the termination of the charges or ask that they be withdrawn, or anything of this kind, I did suggest settlement language to go in the closing paragraphs of the settlement agreement which was *designed to establish the validity of what we were do-*

²³ Forgetting Wyatt's admitted purpose in proposing loaded language for the settlement agreement, and overlooking that the same purpose might be read into Wyatt's postlockout protestations that the association was bargaining only as a multiemployer unit, the Trial Examiner condemns the unions' postlockout pronouncements of their conception of the association as "an attempt to repair a broken bridge in an effort to bolster a legal case." TXD 51, L. 17-18.

ing and had been doing, and all the unions and the Association had been doing. . . . [Emphasis added.]

The unions of course rejected Wyatt's proposal. TXD 38, L. 50. The memorandum of settlement finally agreed upon (R. 407) contained no such language. Wyatt comprehended the full meaning of the unions' rejection. In early 1964, he approached both IWA and LSW proposing negotiation *for Weyerhaeuser alone* of an hours of labor provision.³⁴ T. 1261, L. 1, to T. 1264, L. 18.

(7807-1)

³⁴ This was another of those facts that Wyatt divulged only after repeated denials. See T. 1127, L. 5, to T. 1128, L. 9.

BRIEF FOR THE NATIONAL LABOR RELATIONS
BOARD

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19,812

WESTERN STATES REGIONAL COUNCIL No. 3,
INTERNATIONAL WOODWORKERS OF AMERICA, AFL-CIO
and

WESTERN REGIONAL COUNCIL OF LUMBER AND SAWMILL
WORKERS, AFL-CIO, PETITIONERS

v.

NATIONAL LABOR RELATIONS BOARD, RESPONDENT
and

WEYERHAEUSER COMPANY, CROWN ZELLERBACH CORPORA-
TION, RAYONIER INCORPORATED, INTERNATIONAL PAPER
COMPANY AND ASSOCIATION, INTERVENORS

On Petition to Review an Order of the National Labor
Relations Board

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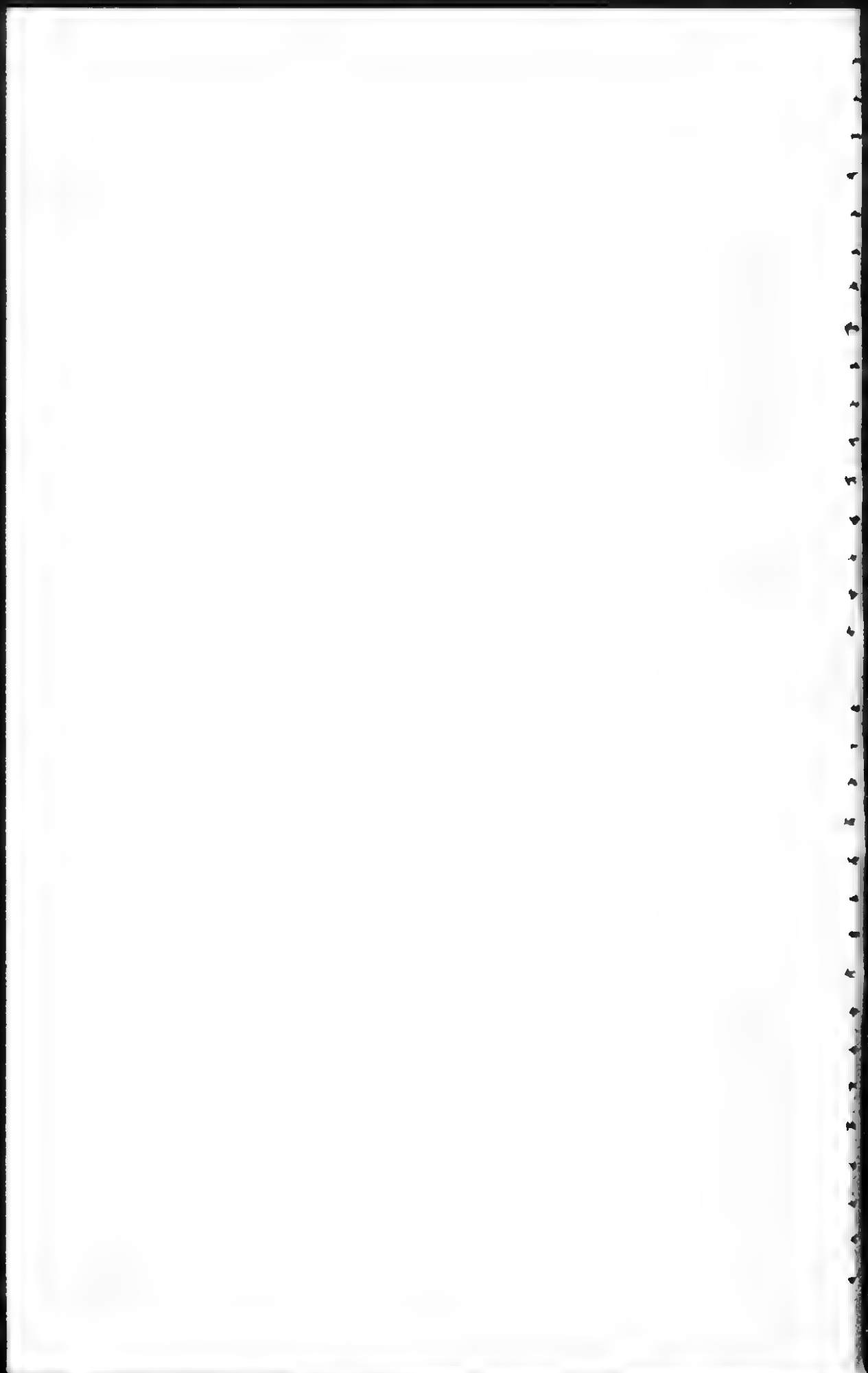
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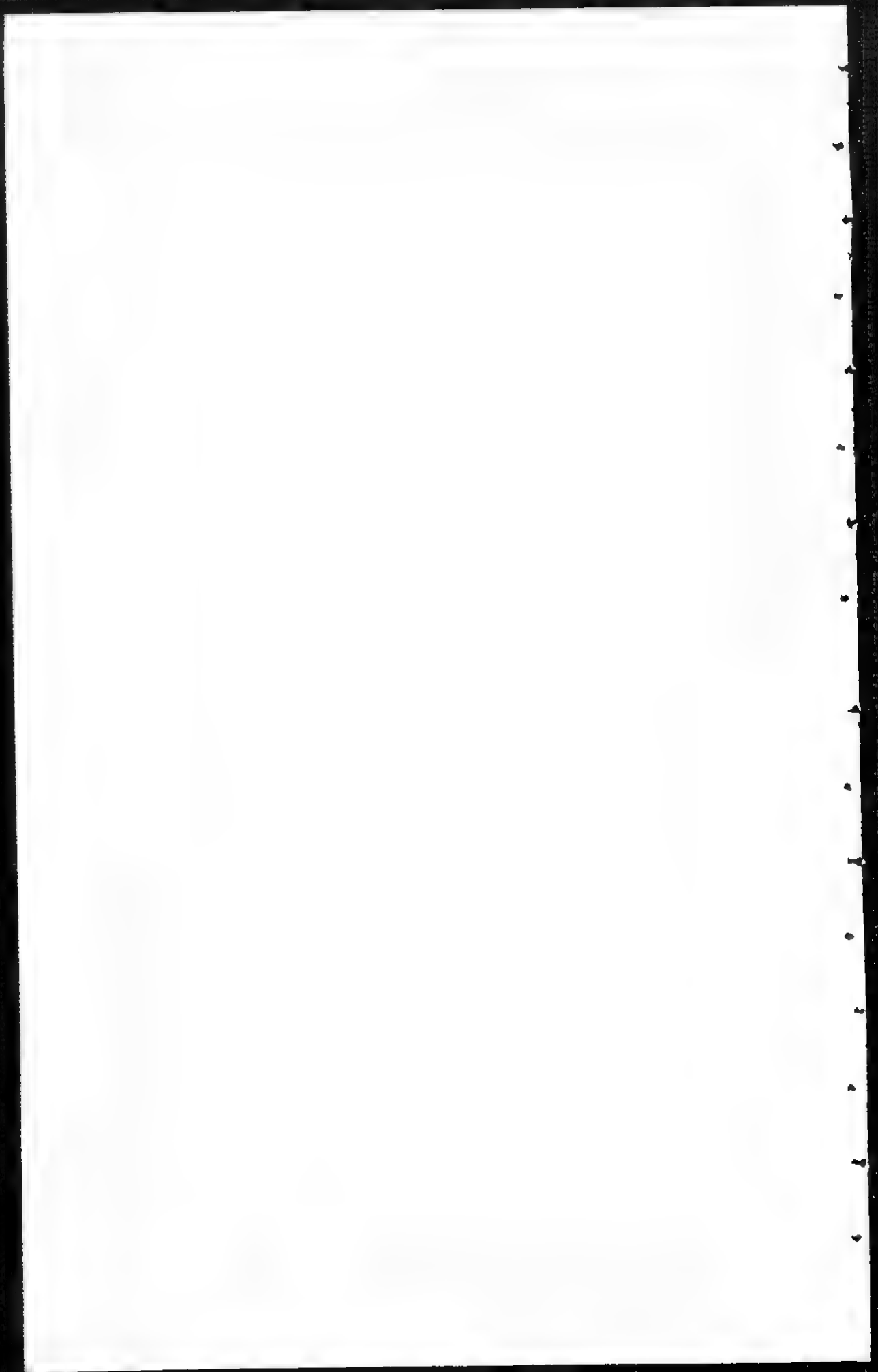
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QUESTION PRESENTED

Whether the Board properly concluded upon substantial evidence on the record as a whole that intervenors did not violate Section 8(a) (3) and (1) of the National Labor Relations Act by the shutdown of plants in the circumstances found by the Board in this case.



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United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19,842

**WESTERN STATES REGIONAL COUNCIL No. 3,
INTERNATIONAL WOODWORKERS OF AMERICA, AFL-CIO**

and

**WESTERN REGIONAL COUNCIL OF LUMBER AND SAWMILL
WORKERS, AFL-CIO, PETITIONERS**

v.

NATIONAL LABOR RELATIONS BOARD, RESPONDENT

and

**WEYERHAEUSER COMPANY, CROWN ZELLERBACH CORPORA-
TION, RAYONIER INCORPORATED, INTERNATIONAL PAPER
COMPANY AND ASSOCIATION, INTERVENORS**

**On Petition to Review an Order of the National Labor
Relations Board**

**BRIEF FOR THE NATIONAL LABOR RELATIONS
BOARD**

COUNTERSTATEMENT OF THE CASE

**This case is before the Court upon petition of Western
States Regional Council No. 3, International Woodwork-
ers of America, AFL-CIO, and Western Regional Council**

of Lumber and Sawmill Workers, AFL-CIO, (hereafter referred to as "IWA" and "LSW," respectively, and collectively as the "Unions"), filed pursuant to Section 10 (f) of the National Labor Relations Act, as amended (61 Stat. 136, 73 Stat. 519, 29 U.S.C., Sec. 151, et seq.), to review an order of the National Labor Relations Board issued on November 16, 1965, dismissing an unfair labor practice complaint against intervenors Weyerhaeuser, Crown Zellerbach, Rayonier, International and Association. The Board's Decision and Order (J.A. 1-5)¹ are reported at 155 NLRB No. 82.

L The Board's Findings Of Fact

Briefly, the Board found that during the 1963 joint negotiations by intervenors and two other employers² with LSW and IWA a bargaining impasse was reached, following which employees belonging to the Unions struck plants operated by the two employers referred to above. The intervenors, believing themselves part of a multiemployer bargaining unit along with the two struck employers, closed their plants for the purpose of preserving the integrity of that unit, and in furtherance of the bargaining position advanced jointly for all six employers by the Association.

The facts underlying the Board's findings are summarized below.

A. Formation of the Association

In the spring or early summer of 1962, Lowry Wyatt, a vice president of Weyerhaeuser Company, began dis-

¹ "J.A." References are to those portions of the record which are printed as a joint appendix to the briefs. Where a semicolon appears, references preceding the semicolon are to the Board's findings; those succeeding are to the supporting evidence. Exhibits lodged with the Court are referred to as "R.X." (Respondent's Exhibit) and "G.C.X." (General Counsel's Exhibit) followed by an identifying number.

² St. Regis Paper Company and United States Plywood Company, also members of the Association (J.A. 328).

cussion of collective bargaining methods with officials of various timber and lumber processing companies with operations in the Pacific Northwest (J.A. 15; 104). Specifically, the discussion concerned formation of an association of employers whose interests were sufficiently common to permit them, in association, to bargain collectively with unions representing their employees to a settlement binding upon all parties (J.A. 17; 107).³

Beginning in late September, 1962, officials of interested companies met. Studies and reports concerning the practicability of forming such an association were made and examined by persons representing Weyerhaeuser, Crown Zellerbach, Rayonier, International, St. Regis Paper Company, and U.S. Plywood as well as several other employers who withdrew before the formal creation of the Association (J.A. 21; 108-110). By January or February of 1963,⁴ tentative drafts of an agreement creating the Association were drawn and the company representatives, now designated a committee, requested that Wyatt ascertain the attitude of IWA and LSW officials toward bargaining with such an association (J.A. 16; 112, 124-126).

Accordingly, Wyatt met in mid-February with Harvey Nelson, President of Western States Regional Council No. 3, of IWA (J.A. 16-17; 126). Wyatt outlined plans for the Association, and told Nelson that his opinion was being sought because it was respected. Wyatt added that he wanted the benefit of Nelson's opinion before any further meetings were held with representatives of other companies (J.A. 17-18; 128). Wyatt gave Nelson the names of interested employers and Nelson suggested others who he thought should be included (J.A. 17; 128-

³ Although other associations of employers had in the past negotiated with unions in the Pacific Northwest, apparently none had ever been "fully bound" in the sense Wyatt envisioned (J.A. 17; 98). Heretofore only recommendations were made by the negotiating body to the individual employers, who were then free to accept, reject or negotiate variations as it suited them (*ibid.*).

⁴ All dates hereafter are 1963.

129). Among other things, Wyatt listed subjects of bargaining which the Association would probably wish to reserve for individual company negotiation, i.e., union security, pensions, and health and welfare³ (J.A. 17; 125-126). Nelson stated that he anticipated no problem in connection with the reserved subjects and saw nothing basically wrong or unsound in what Wyatt proposed (J.A. 18; 128, 524-525).

Shortly thereafter Wyatt met with Earl Hartley, Executive Secretary of the Western Council, LSW (J.A. 18; 130). Wyatt described the proposed association as a "fully-bound" group and outlined it in much the fashion as he had to Nelson (J.A. 18; 130-131). He again explained the reservation by the companies of certain issues for separate negotiations. Hartley replied that he saw no problem in anything Wyatt outlined, but wished to consult others concerning it (J.A. 18; 131-132). Several days later, Hartley called Wyatt and told him that the opinions of local unions had been sampled and that they looked with favor upon the formation of the Association (J.A. 18; 134).⁴

Wyatt reported the favorable reaction of the Unions to company representatives at a meeting in late February (J.A. 19; 136-138). Simpson Timber and Scott Paper, not wishing to be fully bound to the results of Association bargaining, withdrew at this meeting. The remaining

³ Most of the interested employers already had union shop contracts. Weyerhaeuser's agreement to an agency shop provision had been given subject to its being found valid by the Supreme Court (J.A. 17, n. 8; 279). Some companies' existing health and welfare and pension plans were administered through multi-company trusts. Consequently, any changes in the trust provisions would be best negotiated in proceedings involving all trust participants, some of whom were not Association members (J.A. 17, n. 9; 182, 347, 365-366).

⁴ One of the persons with whom Hartley consulted was Daniel Johnston, economic advisor to LSW, who strongly favored formation of such an Association because LSW had become increasingly concerned over recent raiding activities by the Teamsters. Johnston felt that the negotiation of a "master contract" encompassing a multi-plant unit would prevent piecemeal decertifications (J.A. 19; 570).

company representatives decided to form an association as soon as possible (J.A. 19; 146-148).⁷

Employer representatives held several meetings during March and April to decide Association structure, draft the language of their agreement, and adopt a uniform "opening letter"⁸ (J.A. 20; 148-149). No final agreement on the form of association was concluded during March. Kimberly-Clark withdrew. Representatives of Weyerhaeuser, Rayonier, U.S. Plywood, Crown Zellerbach, St. Regis, and International then met on April 12 to compare their openings and agree upon a form of agreement to associate (J.A. 20; 154-155). After considerable discussion, a final draft of an agreement was approved and there was tentative agreement to sign by the six remaining employers (J.A. 21; 159). Wyatt then called Nelson of IWA, told him that "we [have] an association in being or on the way" (J.A. 21; 159). Wyatt told him who of the employers were members and established April 24th as the first date for negotiation between the Association and IWA (J.A. 22; 159-160). Wyatt also called Hartley of LSW requesting that he contact Elias Manchester Boddy of Crown Zellerbach, Secretary of the Association, to arrange dates for contract negotiations (J.A. 22; 160). Between this meeting and April 22, an agreement establishing the Association was drawn in final form and signed by representatives of the six employers (J.A. 22; 167-168).⁹

⁷ Wyatt believed that the Unions would press for and get three-year contracts in the 1963 negotiations. Accordingly, he reasoned that failure to form an association before the onset of negotiations would foreclose consideration of it until 1966 (J.A. 19; 148-149).

⁸ "Openings" are notices by union or employer to the other contracting party of the "desire to open the existing bargaining agreement for the purpose of bargaining either specific or general changes" (J.A. 20; 150). Absent timely notice of opening, contract terms continue in effect for another year (J.A. 20; 148). Many of the contracts here involved required notice of opening by April 1 (J.A. 19; 148).

⁹ The agreement reads, in relevant part, as follows:

It is hereby agreed by and between the undersigned parties (hereafter referred to as the "Companies"):

Whereas, the Companies desire to:

1. Form a multi-employer association through which they will hereafter bargain collectively with labor unions which are duly authorized representatives of employees in the operations of the Companies listed in Exhibit "A", attached hereto and by this reference made a part thereof, and which may be amended from time to time.
2. Mutually assist one another in connection with the procedure, conduct and problems of such collective bargaining, and
3. Promote industrial peace, progress and stability through such collective bargaining.

Now, Therefore, it is agreed as follows:

1. The Companies hereby join together as a voluntary multi-employer association for the purpose stated above.

* * * *

3. Subject matters which the Companies agree to submit to association bargaining will be all matters, pertaining to the wages, hours and other conditions of employment of the employees hereinabove mentioned, except:

- a. Those matters which are of a local nature that do not have a general impact on the wood products industry if agreed upon by any individual company member of this association as a result of independent bargaining negotiations with any of such unions; and

- b. Those matters which may have such a general impact, but which are specifically reserved from bargaining between this association and said unions by timely notice to and agreement with the unions involved.

4. Individual company members of this association may reserve to themselves for separate and individual bargaining such matters as are described in (3)(b) above by giving written notice of such reservation to each other member of this association before the association has given notice to the appropriate union of the matters upon which the association will collectively bargain and negotiate with such union.

5. After written notice is given by the association to the appropriate union as to matters upon which the association is authorized to negotiate, the Companies shall bargain collectively as a multi-employer association and each member company shall participate in such negotiations. Whenever any decision must be reached pertaining to such bargaining negotiations, a favorable vote of 75% of the association membership shall be required. Each member company shall have one vote.

6. Whenever negotiations between the association and authorized bargaining representatives of local unions pertaining to subjects of bargaining delegated to the associa-

At this meeting, representatives of association members also agreed upon a standard letter by which each employer was to notify the Unions¹⁰ of its delegation to "a voluntary multi-employer Association of authority to bargain collectively . . . pertaining to all matters . . . other than the subjects of (1) pensions, (2) union security, (3) health and welfare, and (4) those issues . . . customarily subject to local negotiations." The letter also announced that "this Company through the Association desires to change the terms of . . . existing agreements with respect to (i) hours of labor, (ii) overtime, and (iii) grievance procedure . . ." (J.A. 25; R.X. 205).

tion and to such union representatives; result in an agreement, subject to ratification by the union membership involved, all the collective bargaining agreements between the several association members and the affected local unions shall be amended and supplemented accordingly.

7. If as a result of negotiations on or with respect to subjects of bargaining delegated to the association, a strike is instituted by the union involved against any or more of the association members or against any one or more of the operations listed in Exhibit "A", all other member companies of the association committed to such negotiations shall thereupon close the operations listed in Exhibit "A": in which the striking union is involved, in order to protect the entire membership of the association in its conduct of such bargaining negotiations. If a strike should occur against any member company or any of said operations during or as a result of negotiations on a matter described in (3)(a) or (3)(b) above, the other members of the association shall not be deemed affected nor be required to close or suspend any operations by reason of such strike.

* * * *

9. Any of the Companies signatory hereto may withdraw from the association formed hereby and terminate its membership therein by giving written notice by registered mail to all other member companies and to the appropriate union(s) prior to March 1 of any year.
(R.X. 206)

¹⁰ Each of the six member companies had plants represented by both unions with the exception of Rayonier, all of whose included plants were represented by IWA (R.X. 206, App. "A").

B. Negotiations

The Association's negotiating committee, of which Wyatt was chairman and spokesman, met with representatives of IWA during April and with IWA and LSW negotiators separately during May and June. Events during negotiations are set out chronologically as follows:

1. April 24 negotiations—IWA

Nelson and other members of the IWA negotiating committee met with the Association bargaining committee for the first time on April 24 in Portland, Oregon (J.A. 27; 170). Wyatt introduced the Association committee members (one for each company) and opened the meeting with a statement reiterating much of which had been stated in the letters announcing the formation of the Association (J.A. 27; 172-174). He then restated the limits of Association authorization to bargain. Nelson replied by pointing out that the various companies' local openings (see *supra* p. 5 n. 8) were not uniform (J.A. 27; 173-174). Wyatt replied that Association bargaining of any issue would be dispositive—that nothing negotiated at this level would be renegotiated at the local or single company level (J.A. 27; 174). Nelson asked for clarification of St. Regis and U.S. Plywood openings, stating that the IWA did not want again to be placed in the position of having to conduct duplicate negotiations (J.A. 28; 465-466).¹¹ The Association negotiators withdrew to caucus and, upon returning, Wyatt again assured Nelson that anything negotiated at the Association level would not be renegotiated at a local level (J.A. 28; 174). Nelson nevertheless asked for a clarification of each company's openings. Wyatt agreed to have the committee study the openings and report in the morning (J.A. 28; 183-184). St. Regis, which had opened on all is-

¹¹ In 1961 IWA had bargained with a group of employers called Timber Operators' Council (TOC). According to Nelson, several companies had withdrawn from the TOC negotiations and thereafter IWA was forced to renegotiate issues with them (J.A. 462).

sues, was to answer Nelson directly. It did so in a letter dated April 29 (J.A. 28; R.X. 61).

It was then suggested that the remaining time be devoted to an explanation of openings by the spokesmen of either party (J.A. 28; G.C.X. 54). Nelson outlined four IWA demands; (1) a contract term of three years, (2) a general wage increase of 40 cents, 20 cents in 1963, and 10 cents each in 1964 and 1965, plus a "bracket increase" for skilled employees, (3) establishment of a committee to deal with problems of automation, and, (4) travel time pay for loggers (*ibid.*).

Wyatt then described Association desires as (1) a contract adjustment to allow 7-day, 3-shift operation with no automatic overtime for Saturdays and Sundays, (2) a contract clause forbidding concerted refusals to work overtime, (3) a provision requiring grievants to continue assigned tasks pending processing of their grievances (J.A. 29-30; 176-178).

Before the meeting ended, Nelson again expressed dissatisfaction with "overlaps" between local and Association openings, reminding Association negotiators that clarification was needed (J.A. 30; 179).

2. April 25 negotiations—IWA

The parties met again on the following afternoon. Wyatt explained that "what appeared to be some overlay or confusion" between local and Association openings had been caused by lack of time (between formation of the Association and the April 1 deadline for openings) to compare openings and "remove any overlap" (J.A. 30; 183). A U.S. Plywood representative explained that his company would be bound by any agreement reached by IWA and the Association but that certain elements of the hours-of-labor issue would nevertheless be negotiated on a local level (J.A. 30; 187, G.C.X. 54). Nelson complained that this appeared to be departure from the description of scope of Association bargaining given on the 24th (J.A. 30; G.C.X. 54).

At Nelson's request, Wyatt presented the Association's written proposals on hours of labor, overtime and the continuation-of-work-while grieving issue (J.A. 31; 185-186). All, or most, issues were then discussed by the parties. At the close of the meeting, Nelson requested that the Association prepare a counter-proposal on automation and travel time and define and separate Association and local issues and authorizations (J.A. 31; 185).

3. April 26 negotiations—IWA

The parties met as planned on April 26. Wyatt repeated his explanation for the overlap between local and Association openings and assured IWA negotiators that such "confusion" would not occur again (J.A. 31; 186). As a solution to the current problem, Wyatt suggested that all U.S. Plywood openings on hours of labor together with all local union openings on the same subjects be brought in for bargaining on the Association level (J.A. 31; 187). Nelson objected that the Regional Council lacked authority to bargain on these local openings and suggested that a separate room be provided for the use of local union officials and U.S. Plywood officials to bargain and report results to the industry negotiators (J.A. 32; 473). This suggestion was rejected by the Association (after caucus) because U.S. Plywood was unwilling to bring its plant managers into the industry negotiations. Wyatt proposed that the local union officials be brought in to negotiate the local issues with Association representatives who had been authorized by U.S. Plywood to negotiate these matters (J.A. 32; 473). Nelson stated that as the Regional Council was not authorized to bargain local openings for the local unions, he could not assent to Wyatt's proposal (J.A. 32-33; 473).¹² Nelson suggested that the parties continue discussion of IWA's

¹² The Board's trial examiner notes that this *non sequitur* indicates that Nelson either did not understand the proposal or preferred, for tactical reasons, not to assent (J.A. 33).

delegated industry-wide openings in the hope that in disposing of these matters a solution to the U.S. Plywood hours-of-labor problems would present itself (J.A. 33; 473, R.X. 398).¹³

At this meeting the parties discussed at some length travel time openings, the grievance procedure, and the IWA wage demand (J.A. 33; G.C.X. 54). Wyatt felt further study was necessary on the travel time. Nelson raised an objection to the Association proposal concerning grievance procedure and then asked if Wyatt had any comment on the IWA's wage demand (J.A. 33; 195-196). Wyatt stated that the wage demand was excessive and that any increase would have to be related to all contract terms agreed upon (J.A. 33; G.C.X. 54).

4. April 29 negotiations—IWA

At the meeting of April 29, a St. Regis official gave Nelson a letter explaining St. Regis' openings (J.A. 33; R.X. 61). St. Regis was willing to postpone discussions specifically related to local openings pending the conclusion of current Association-IWA negotiations; Nelson raised no objection to this interim solution (J.A. 33; 187).

The Association then proposed a three-year wage offer related to the current wage scale, and proposed a "bracket adjustment"¹⁴ with a formula for its application. The offer was based upon a contract for three years without provision for reopening and upon IWA's acceptance of Association openings (J.A. 33-34; 194-195). The IWA negotiators withdrew to caucus. On their return Nelson indicated general assent to the Association's seven-day work-week proposal, but rejected the wage offer as "far too little" (J.A. 34; 195). He also rejected the proposal

¹³ The agreement was apparently adhered to, since this subject was not discussed on April 29, 30, May 27, 28, 31 or June 4 (J.A. 475-476).

¹⁴ See explanation, *supra*, p. 9.

on grievance procedure because of "isolated local problems," and the proposal on concerted refusal to work overtime because of unwillingness to agree to any contract change which would restrict the "individual's right to refuse" to work overtime (J.A. 34; 195). Concerning the wage offer, IWA negotiators' position was that by agreeing to a three-year contract term, they were "attempting to introduce stability in the bargaining relationship" and that a higher wage increase was the desired *quid pro quo* (J.A. 33; 196).

That afternoon negotiations continued with both parties explaining their positions and exchanging argument and comment on the issues discussed in the morning session (J.A. 35; 197-199). Late in the afternoon Wyatt expressed disappointment that the Association proposal had been rejected so quickly. Nelson replied that IWA's objectives were so clear that no great amount of time was needed to determine that the Association proposal was unsatisfactory (J.A. 34; 199). Nelson further commented that "the Association must be intending to negotiate to a strike situation" and that it "probably would be accommodated" (J.A. 34; 199).

5. April 30 negotiations—IWA

The Association spokesman began the April 30 meeting by outlining a new wage offer which included "bracket adjustment" and overtime provisions. Wyatt also offered to allow IWA to work out the language of concerted-refusal-to-work-overtime and refusal-to-work-while-grieving provisions (J.A. 35; 202-203).

Following a recess, Nelson announced IWA's rejection of the Association offer. He also expressed disappointment that no offer concerning travel time and automation had been made (J.A. 35; 203). Nelson then counter-offered for IWA, and Association negotiators withdrew to consider the counteroffer (J.A. 35; 203-204). When they returned, Wyatt announced that the parties' offers were

too far apart. After further discussion they agreed to adjourn subject to call by either party (J.A. 35; 205).

(a) IWA strike preparations

Early in May, local IWA unions began to take strike votes, which were reported on May 15 (J.A. 35-36; R.X. 397). Eighty-nine per cent of the votes cast favored a strike (J.A. 36; R.X. 376).

6. *May 9 negotiations—LSW*

By arrangement of the parties the first Association-LSW negotiation meeting was held in Portland on May 9. Wyatt was again spokesman for the Association.¹⁵ Hartley, Executive Secretary of the Western Council, LSW, and Daniel Johnston economic adviser to LSW, represented LSW (J.A. 41; 294). Johnston announced that LSW would not recognize the Association as a bargaining agency until LSW received certain information concerning the Association. He wanted to know the nature of the structure of the organization, and whether it was formed in such a manner that a strike against one member would be regarded as a strike against all members (J.A. 41; 295, 302, 580). Wyatt explained the Association framework and stated that although the employers' agreement provided that a strike against one was to be regarded as a strike against all, it was not the primary purpose of the organization (J.A. 42; 302, 580). Johnston asked to inspect a copy of the Association agreement, but it was not provided (*ibid.*). Wyatt read a list of plants for which the Association would bargain, Johnston objected to the exclusion of plants east of the Cascade Mountains, to the exclusion of St. Regis' plants at Klickitat, Washington, and at Libby, Montana, and of U.S. Plywood's operations at Polson, Montana, and those in Cali-

¹⁵ Although a Rayonier official was present at this meeting, he did not serve on the negotiating committee since Rayonier had no employees represented by LSW (J.A. 294).

ifornia (J.A. 42; 296). Wyatt replied that negotiations for plants east and west of the Cascades had traditionally been separate, that Libby, Klickitat and Polson were "eastern slope" operations. As to the Douglas City and Sonoma, California, plants Wyatt explained that Douglas City had been omitted through inadvertance and would be included, but that there had been no openings at Sonoma and hence no reason to refer to that plant's contract (J.A. 42-43; 298, G.C.X. 59).

Johnston stated that the Western Council would be speaking for all its locals, that it was important to bargain to a "master agreement" inasmuch as LSW had suffered six Teamster raids in the past year and that, in 1961, St. Regis signed a Teamster contract "behind a picket line" (J.A. 47; 580). Johnston then asked if Wyatt had authority to bargain on LSW openings as well as employer openings. He was assured that the Association was empowered to bargain all openings other than those previously reserved (J.A. 45; 582).

After a recess for lunch and caucuses by both Association and LSW negotiators, bargaining resumed. Still unsettled was the question of exclusion of certain plants by St. Regis and U.S. Plywood (J.A. 43-44; 583). After discussion (during which Wyatt stated that if inclusion of plants east of the Cascades was a make-or-break issue, negotiations were concluded) the parties decided to negotiate for the bargaining area outlined by the Association, at least during current negotiations (J.A. 44; 304).

Hartley then handed a letter, dated May 8, to the Association negotiators. The letter notified the Secretary of the Association that Western Council had been authorized to represent LSW local unions "in collective bargaining with the Multi-Employer Association. . .," and listed Association members plants for which the Council would bargain (J.A. 46; 583, R.X. 207). A three-page letter dated April 11 and signed by Hartley was then distributed. This letter discussed conditions and problems in the industry concerning which LSW intended to negotiate and

concluded by stating that "we welcome an industry association or . . . a joint employer industry committee representing the major companies with which we hold contracts covering a majority of our members" and that "[w]e look forward to these joint bargaining sessions and are confident that the joint problems will be discussed and resolved . . . to the interest of all parties . . ." (J.A. 46; R.X. 200).

Johnston presented LSW's demands: a committee on automation; a committee on classifications; a master contract; a change in pro-rata vacations for retirees; a subcontracting clause; bracket adjustment for maintenance employees; and a 60-cent increase in wages spread over the three-year contract term (J.A. 46-47; 584-585). Concerning the master contract, Johnston explained that the opening of all subjects in all contracts was not necessary, but that LSW wanted to make uniform "sufficient items to give us protection against raids" and that they were "flexible" as to what items would be included in the initial contract (J.A. 47; 585). Wyatt discussed Association openings and commented on some of LSW's demands. Discussion of automation's impact on employment in the industry and a general discussion of wage issues ensued (J.A. 47; R.X. 400). Wyatt agreed to present definite wage proposals at the meeting scheduled for the following day. (J.A. 47; R.X. 400). Johnston suggested that Wyatt give consideration to scheduling further negotiations on May 22 and 23 (*ibid.*).

7. May 10 negotiations—LSW

When the parties met on May 10, Wyatt opened with a statement of the Association's position on LSW demands (J.A. 47; 589). He then presented the Association openings together with a wage offer (*ibid.*). Johnston commented unfavorably on the offer and LSW's negotiating group withdrew to consider it and other Association proposals (J.A. 47; 308).

Upon returning, LSW representatives rejected the Association proposal. Nevertheless, discussion of the parties' positions was resumed (J.A. 48; 310-311). Wyatt pointed out that while he believed LSW's wage proposal to be "way out of line," the employers' ability to raise wages was "seriously affected" by LSW's attitude toward some of the Association's other openings, such as the proposal for a 7-day, 3-shift operation (J.A. 48; 311). Hartley pointed out to Wyatt that he had been instructed to "meet and talk with the IWA," that Harvey Nelson informed him that he was then taking a strike vote "in answer to your proposal to that organization." He observed that the employers "must be going well" and unless their offers improved "you are going to get your smoke stacks cooled [w]e are going to shut you down" (J.A. 48; 312, R.X. 401). The parties then agreed to break off discussion and meet on the next scheduled negotiation date (J.A. 48; R.X. 401).

8. May 22 negotiations—LSW

When the Association and LSW met again, neither would advance a new proposal, each taking the position that the initiative properly belonged to the other party (J.A. 48; R.X. 402). Johnston, carrying on his effort to direct bargaining to a master contract for unit protection, asked Wyatt whether the Association was empowered to execute a "joint agreement." Wyatt replied that he had such authorization but preferred to bargain to a "joint settlement." (J.A. 49; G.C.X. 60) The Association (J.A. 49; R.X. 402) "was not willing to enter into an Association contract" but was willing to enter into "uniform contract language to go into all contracts" (*ibid.*).

When neither party was willing to make a new proposal, both went into caucus, following which Hartley announced that he had notified the Federal Mediation and Conciliation Service and that the LSW was willing to meet at any time (J.A. 50; R.X. 402). The meeting was adjourned without setting any future meeting date (*ibid.*).

9. May 27 negotiations—IWA

When the Association and IWA met after the strike vote had been taken (*supra*, p. 13), neither was willing to change its bargaining posture. Wyatt commented that the "gulf between us [is] of such size that it [is not] . . . a good time to make additional offers on behalf of the Association" (J.A. 37; 210). Nelson replied that if the Association's last offer was final, they "could only be interested in having a shutdown or a strike . . . and that the Union could accomodate . . ." (J.A. 37; 210). He continued, "that sometimes we can find the answer better in a strike" but that "these companies ought to . . . do a better job of soul searching and offering and find the answer here at the bargaining table" (J.A. 37; 211). Wyatt countered that the Association was "not in this session bargaining for a strike . . . did not consider it the right answer," and that "one of the real reasons for forming this Association . . . was to make a strike an outmoded thing . . ." (J.A. 37; 211).

The parties withdrew to consider their positions in caucus. IWA returned to state that its position had changed, it was now dropping the three-year contract demand and would bargain for a one-year contract (J.A. 37; 211). When Wyatt asked why it had abandoned the three-year approach, Nelson replied that the Association's offer for the second and third years had been "an insult" (*ibid.*). Nelson then stated the IWA's position on wages and travel time. Wyatt repeated it to be sure he understood and the meeting was adjourned (J.A. 37; 212).

10. May 28 negotiations—IWA

Wyatt opened the May 28 bargaining session by announcing an Association counter-proposal. He counseled return to the three-year contract and detailed a wage proposal which included bracket adjustments and an increased wage offer for the second and third year (J.A. 37; 216). Nelson welcomed the return to bargaining for a

three-year contract but criticized Wyatt's failure to include proposals on travel time and automation (J.A. 38; 216-217). The committees then retired to consider the latest offer. On return, Nelson announced that the parties were in agreement on the bracket proposal, subject to a review of the Association's list of classifications. He then explained a new travel-time proposal based upon a staging area or "central pick-up point," and asked for a joint committee to study and make recommendations concerning problems of automation (J.A. 38; 217-218). He then outlined a new wage proposal before the conclusion of the day's meeting (J.A. 38; 218).

11. *May 31 negotiations—IWA*

At this meeting Wyatt announced Association rejection of the IWA's last wage proposal. He then stated that the employers had reviewed their position and had a new proposal (J.A. 38; 218-219). The new proposal contained an upward revision of the Association wage offer, agreement to establish a committee on automation, deletion of the Association proposal on grievance procedure, establishment of a joint committee to investigate a solution as to the travel time issue, and contained insistence on a clause forbidding concerted refusal to work overtime (J.A. 38; 219-220). IWA requested a recess until the morning of June 4 (J.A. 38; 221).

12. *June 3 negotiations—LSW*

Under the auspices of the Federal Mediation and Conciliation Service, the Association and LSW negotiators met on June 3 at a hotel in Portland (J.A. 50; 317). The parties informed the Mediator that they were in agreement on the term of the contract (3 years), on prorated vacations for retirees, and were close to agreement on bracket adjustments. LSW negotiators expressed their desire for a master, uniform agreement and asked Wyatt whether he had authority to enter into such a contract. He answered that he did (J.A. 50-51; 318). At one point

Johnston, for LSW, asked Wyatt whether he would agree to drop the Association's seven-day-week proposal in return for LSW's abandonment of the master contract issue. Wyatt's response was negative (J.A. 51; 320). Wyatt then explained a new wage offer on behalf of the Association. LSW, after a caucus, responded that the offer was insufficient (J.A. 51; 321). Hartley commented that the parties were now in a "deadlock" (J.A. 51; 684, R.X. 404, G.C.X. 61). The meeting adjourned.

Later, at the invitation of Hartley and Johnston, Wyatt met with them privately (J.A. 51; 685). Hartley told Wyatt that he was not being heard in "the sound proof room"¹⁶ and that the "whole thing could be settled by opening the purse strings" (J.A. 51; 325, 685). When Johnston asked Wyatt whether the Association would lock out in response to a strike of some of its members, Wyatt replied guardedly that he believed it would (J.A. 51; 325-326).

13. June 4 negotiations—IWA

The IWA and Association bargaining committees met as planned on June 4. Neither IWA nor the Association was willing to make a new proposal (J.A. 38; 221). Nelson announced that IWA was "discontinuing these negotiations" since "[t]his looks like . . . [an] impasse" (J.A. 39; 223). Nelson and Wyatt met later and, in response to questioning, Wyatt informed the IWA official that in the event of a strike of any member of the Association, "certainly the balance of the Association would close its plants" (J.A. 39; 224).

C. The strike and lockout

On June 5, all of the St. Regis plants covered by the Association agreement and all but two of U.S. Plywood's listed plants were struck by IWA and LSW (J.A. 52; 224, 327). U.S. Plywood's struck plants employed 3,100 per-

¹⁶ Apparently a reference to policy-making employer executives.

sons; the two unstruck plants employed a total of 77 (J.A. 328).

Wyatt called a meeting of Association members on the day of the strike to ascertain firsthand what operations had been struck and whether the strike had been caused by anything other than the course of the negotiations between the Association and the Unions (J.A. 54; 228-229). Representatives of St. Regis and U.S. Plywood assured Wyatt that the strike was caused by the impasses in Association bargaining with the Unions (J.A. 54; 228).¹⁷ Accordingly, pursuant to paragraph 7 of their agreement (*supra*, p. 7 n. 9), representatives of the six companies decided unanimously to shut down those Association operations that had not been struck (J.A. 54; 228-229). The shutdown began on June 7, and remained in effect until early August (J.A. 54).

D. Post strike settlement negotiations

Following the strike and lockout, the parties continued to negotiate independently and under the auspices of the Mediation and Conciliation Service (J.A. 55). On June 13 and 14, the Union filed charges with the Board, which resulted in complaint charging the four Association

¹⁷ This judgment is confirmed by a letter sent to all locals by an officer of IWA's Regional Counsel on June 5. It states, *inter alia*, that because the "Employers refuse to make a decent proposal toward a settlement of our just demands in this year's negotiations," the "Negotiating Committee and Executive Board have elected to strike certain Companies . . . [t]his, we believe, will be the most effective method to obtain an industry-wide settlement . . ." (emphasis deleted) (R.X. 378).

A letter of the same date, addressed to locals of LSW by Executive Secretary Hartley, stated that "[t]he negotiations with the Big Six [Association] reached an impasse and economic action is the only method left to achieve your wage demands [c]onsequently, a strike will commence at some plants 12:01 a.m. . . . June 5 . . ." (R.X. 391).

The strike was coordinated by IWA and LSW, whose officials had agreed to take strike action against U.S. Plywood and St. Regis on June 5 if a settlement could not be reached by that time (G.C.X. 42).

members who locked out with violating Section 8(a)(1) / and (3) of the Act (J.A. 7).

Wyatt continued to negotiate for the Association and the Unions were also represented by the same negotiators. The Unions, however, now claimed in negotiations to be negotiating with the individual companies through their common agent (J.A. 59; R.X. 163, 214, 215).

The Association, after notifying the Unions, unilaterally reopened the shutdown operations on August 7 (J.A. 7; 268). On August 13, the parties agreed on settlement terms. The agreement was reduced to a document signed by Nelson, Hartley and Wyatt (J.A. 66-67; R.X. 407). A separate list of subjects remaining open between individual companies and the Unions on excluded issues was also signed by Wyatt to avoid any question of foreclosure of local bargaining (J.A. 66-67).¹⁸

II. The Board's Conclusions And Order

The Trial Examiner (J.A. 92-93) found that the six companies comprising the Association had effectively formed a multiemployer bargaining unit, which was accepted by the Unions in the course of bargaining. Accordingly, he concluded that the lockout by four employers in the unit, following the Unions' strikes against the other members of the unit, was a lawful defensive act against a whipsaw strike sanctioned by the Supreme Court's decision in *N.L.R.B. v. Truck Drivers Local Union No. 449, Teamsters (Buffalo Linen)*, 353 U.S. 87.

The Board found (J.A. 2-5) it unnecessary to pass on the Trial Examiner's factual conclusions that the Association existed, functioned and was accepted as a multiemployer bargaining unit, because, whatever the nature of the Association, the record shows that its six members ~~bargained jointly to an impasse over economic issues.~~ Thus, the lockout, whether in direct response to the

¹⁸ Pensions, Weyerhaeuser's still unresolved agency-shop agreement, and 1961-1962 bargaining matters still pending at one of Weyerhaeuser's operations were covered (J.A. 67, n. 44).

strike against two members of the Association, or an economic action taken to further their own bargaining position, was within the legitimate rights of the employers under the Supreme Court's more recent decisions in *American Ship Building Company v. N.L.R.B.*, 380 U.S. 300 and *N.L.R.B. v. Brown*, 380 U.S. 278. Accordingly, the Board held that the intervenors did not violate Section 8(a)(1) and (3) of the Act by locking out their employees in the circumstances found, and, like the Trial Examiner, dismissed the complaint (J.A. 5).

SUMMARY OF ARGUMENT

The four intervenor companies, together with two other companies, formed and designated the Association as their joint spokesman, and petitioners each bargained with the Association as the agent of its members. Both sets of negotiations culminated in impasse and petitioners called a strike against two of the Association members. The intervenors, believing that the parties had consensually formed a multiemployer bargaining unit, locked out their employees to preserve the solidarity of that unit from the whipsaw strike, and to support the Association's bargaining positions at the time of impasse. The Board, however, properly held that it was unnecessary to decide whether the lockout was a lawful defensive action in an existing multiemployer unit under *Buffalo Linen Supply Co.*, 109 NLRB 447, affirmed *sub nom. N.L.R.B. v. Truck Drivers Local Union 449, Teamsters*, 353 U.S. 87. Absent independent evidence of an unlawful purpose, an employer may use a lockout to secure his bargaining position during an impasse in negotiations with a union representing his employees. *American Ship Building Company v. N.L.R.B.*, 380 U.S. 300; *N.L.R.B. v. Brown*, 380 U.S. 278. As petitioners bargained with the Association as the joint spokesman of its members, the impasses reached were with each member. Accordingly, under the principles established by the above Supreme Court decisions, the intervenors' bargaining lockout was lawful unless independent

evidence establishes that the lockout was for an unlawful purpose. As there is no evidence of such purpose in the record, the Board properly dismissed the complaint.

The evidence is conclusive that the Association and petitioners bargained to impasse before the strike and the lockout. In their respective negotiations with the Association petitioners each declared that the negotiations were deadlocked over contract terms. Furthermore, petitioners explained their co-ordinated strike action on the express ground that their negotiations with the Association had reached an impasse.

The lockout permitted by the impasse is not unlawful merely because, as the Board found, the intervenors stated it was for the purpose of preserving the solidarity of an assumed multiemployer unit against a whipsaw strike rather than stating it was to advance their bargaining position, since the stated reason involves no purpose proscribed by the Act. Moreover, a purpose to preserve the solidarity of employers against a union's attempt to break an impasse by use of a whipsaw strike clearly has the underlying objective of advancing the employers' bargaining position. Thus, the record in the instant case specifically shows that the lockout had a purpose of ending the impasse on terms favorable to the intervenors' contract demands.

The instant case raises no issue of whether, in view of the Supreme Court's holding in *United Mine Workers v. Pennington*, 381 U.S. 657, the Board should invalidate a lockout where a union and an employer in one bargaining unit bargain and attempt to force a settlement respecting working conditions in another unit, with a purpose of controlling the market by eliminating smaller competitors. Like the employers' conduct held lawful by the Supreme Court in *American Ship* and *Brown Food*, this case concerns bargaining and locking out by employers solely to force unions representing their employees to accept the employers' proposal for a contract covering only their bargaining units. Cf. *Local Union No. 189, Amal-*

gamated Meat Cutters v. Jewel Tea Co., 381 U.S. 676, 689-690 (opinion of Mr. Justice White), 697, 712-713, 722 (opinion of Mr. Justice Goldberg).

No basis exists for remanding the Board's decision and order for further consideration. The required opportunity to introduce evidence and submit argument on the issues raised by petitioners was afforded all parties in the Board proceeding. The Board adequately resolved all the material issues to enable petitioners to raise the Board's findings and conclusion for court review. A remand could only serve the purpose of rearguing issues fully litigated, and is therefore neither necessary nor required.

ARGUMENT

I. The Board Properly Found That The Association Served As The Bargaining Spokesman Through Which Its Members Bargained Jointly With Petitioners

Prior to 1963 the four intervenor employers each dealt directly with petitioners, IWA and LSW. Moreover, the bargaining usually culminated in each employer's negotiating and executing final agreements with the Unions' constituent locals on a plant level. However, in early 1963 the intervenors, together with St. Regis and U.S. Plywood, agreed to seek a uniform contract, either in the form of a master agreement or six uniform agreements, with either Union. To achieve this purpose the six employers decided to form an association to bargain on their behalf with the Unions. Wyatt, the chosen spokesman for that association, explained the plan to the Unions' chief spokesmen, Nelson (IWA) and Hartley (LSW). After discussion with local officials, both agreed to the proposal. Accordingly, the Association was formed, to bargain on the members' behalf with the Unions with a view to executing agreements covering all matters except those reserved for bargaining between each member and the Unions' respective locals.

From April into June the Association, with Wyatt as its negotiator, bargained with the Unions in lengthy and comprehensive negotiations, involving several proposals and counter-proposals on contract terms. However, both sets of negotiations culminated in an impasse over wages and other terms of employment. The Unions then struck two of the Association members (St. Regis and U.S. Plywood) for the express purpose of securing their contract demands from the Association. Thus, on June 5, the day after Nelson informed Wyatt that IWA was "discontinuing negotiations" because of the deadlock, IWA informed its locals that since the "employers refuse to make a decent proposal . . . [IWA], . . . elected to strike certain selected Companies to obtain an industry wide settlement" (*supra*, pp. 19-20 n. 17). On June 3 Hartley explained to Wyatt that the deadlock with LSW could be broken by the Association "opening the purse strings" (*supra*, p. 19). Then, Hartley on June 5 informed LSW's locals that in order to break the impasse with the Association and "achieve your wage demands . . . a strike would occur at some plants" (*supra*, p. 20 n. 17). After the nonstruck employers resorted to the lockout on June 7, the Unions expressly recognized that the Association had been speaking jointly for its members and could properly continue to do so. Thus, on July 1 LSW wrote Wyatt, "We treat the Association as nothing more or less than the agent of each of the respective employers . . ." (R.X. 214, 215). On July 15 IWA wrote that negotiations with the Association were based upon IWA's recognition of each employer's "right to delegate their bargaining authority to anyone or any organization" and that "we have met and will continue to meet with you as a result of each one of the Companies here having previously delegated its bargaining authority to the Association. . ." (R.X. 163). An agreement was ultimately reached with both Unions, and executed by Wyatt on behalf of the Association members.

The above-described facts amply support the Board's findings that the six employers, through the Association, bargained jointly with the Unions. The Unions do not even directly attempt to rebut this inescapable conclusion. Rather, they seek to refute the Trial Examiner's finding that the Association members undertook the requisite obligations to form a multiemployer bargaining unit and that the Unions gave the requisite consent to bargain on that basis. Thus, the Unions point to the employers' agreement creating the Association (see *supra* pp. 5-7 n. 7) and other evidence in the record to show that the employers had retained the authority to approve or reject any agreement negotiated by the Association. The assertion is made that this, and other alleged facts concerning the purpose of the Association and the extent of its bargaining authority, were concealed from the Unions and preclude a finding that the "unions acquiesced in or gave *de facto* recognition to a multiemployer bargaining unit." (Unions' Br.). The short answer is that no such finding was made by the Board, whose ultimate application of the Act, and not the Trial Examiner's, is before the Court for review. Cf. *Warehousemen & Mail Order Employees Local 743 v. N.L.R.B.*, 112 U.S. App. D.C. 280, 281, 302 F. 2d 865, 866; *International Woodworkers of America v. N.L.R.B.*, 104 U.S. App. D.C. 344, 345, 262 F. 2d 233, 234.

~~Thus, unlike the Trial Examiner, the Board did not find that the intervenors' lockout was a lawful effort to protect an existing multiemployer unit. Bargaining may be conducted through a joint spokesman without undertaking the requisite obligations to establish a multiemployer unit,¹⁹ and, as shown *supra*, pp. 21-22, the Board concluded that the lockout was a lawful economic weapon since it was invoked by employers who had, at the least, bargained jointly to impasse with the Unions. Accord-~~

¹⁹ *Bennett Stone Company*, 139 NLRB 1422, 1424-1425. Cf. *Retail Clerks Union No. 1550, et al. v. N.L.R.B. (The Kroger Company)*, 117 U.S. App. D.C. 336, 339, 330 F. 2d 210, 213, cert. denied, 379 U.S. 828.

ingly, as the Board held, it was unnecessary to decide if the parties had undertaken to bargain on a multiemployer basis.²⁰

Therefore, the principles governing the creation of multiemployer units, and their application in the factual context which the Unions asserted existed here, are totally inapposite.²¹ Moreover, the Unions' factual assertions do not impair the finding that the six employers effectively designated the Association as their joint agent. It is, for example, immaterial to what extent the Association members had reserved the authority to approve any agreement reached by the Association spokesman, and whether they were therefore "fully bound" by any contract thus negotiated. The Act does not require that a joint spokesman, whether acting for employers or unions, have the immediate power of ultimate decision. He need only possess sufficient responsibility and authority to admit of the give and take necessary to reach tentative agreements.²² *Bennett Stone Company*, 139 NLRB 1422, 1424-1425; *Shell Oil Company*, 116 NLRB 203, 204-205; *Lloyd A. Fry Roofing Co. v. N.L.R.B.*, 216 F. 2d 273,

²⁰ The consequences of bargaining in a multiemployer unit are manifold, involving, for example, restrictions on withdrawing once negotiations have commenced. See, *N.L.R.B. v. Sheridan Creations*, 357 F.2d 245 (C.A. 2). See also, *The Kroger Company*, *supra*, 117 U.S. App. D.C. at 342, 330 F. 2d at 216.

²¹ Accordingly, it is immaterial whether the Unions' statement of those principles is correct, e.g., the contention that the employers' power to approve or reject an agreement negotiated by an association spokesman is necessarily inconsistent with multiemployer bargaining. But see, *Bellingham Automobile Ass'n*, 90 NLRB 374, 375-376 n. 6; *Cleveland Builders Supply Co.*, 90 NLRB 923, 924; *Quality Limestone Products Company*, 143 NLRB 589, 591 n. 13; *Truck Drivers Local Union No. 449, Teamsters v. N.L.R.B. (Buffalo Linen Supply Co.)*, 231 F. 2d 110, 112 (C.A. 2), reversed on other grounds, 353 U.S. 87. See also, *Indiana Limestone Company, Inc.*, 136 NLRB 697, 698-699, 700, cited with approval by this Court, *The Kroger Co.*, *supra*, 117 U.S. App. D.C. at 342, 330 F. 2d at 216.

²² S. Rep. 105, 80th Cong. 1st Sess., p. 22, I Leg. Hist. of LMRA, 1947 (Gov't Pr. Off.), p. 428.

275-276 (C.A. 9); *N.L.R.B. v. New Britain Machine Co.*, 210 F. 2d 61, 62 (C.A. 2). In any event, the Unions avowedly considered the Association the "agent" of the six employers, recognized the employers' "right to delegate their bargaining authority" to a common agent,²³ and bargained with the Association to agreements covering the members. The Unions may scarcely contend now that the Association was not the joint representative of its members. Cf. *N.L.R.B. v. Fitzgerald Mills Corp.*, 313 F. 2d 260, 267 (C.A. 2), cert. denied, 375 U.S. 834; *N.L.R.B. v. Nettleton*, 241 F. 2d 130, 134 (C.A. 2); *N.L.R.B. v. Gittlin Bag Company*, 196 F. 2d 158, 159 (C.A. 4).

II. The Board Properly Found That The Lockout Following The Impasse In Negotiations Did Not Violate Section 8(a)(3) And (1) Of The Act

As shown, the Association bargained to impasse with the Unions. As a result, the Unions engaged in a coordinated strike against two of the six Association members, St. Regis and U.S. Plywood. The four intervenor employers, believing themselves part of a valid multiemployer unit along with the two struck employers, closed their plants for the stated purpose of preserving the integrity of that unit, and in furtherance of the bargaining position advanced jointly through the Association at the time of the impasses. The Trial Examiner reached the factual conclusions that the Association existed, functioned, and was accepted by the Unions as a multiemployer bargaining unit. Under long settled law, which

²³ See, *N.L.R.B. v. ILGWU, AFL-CIO (Slate Belt Apparel Contractors' Association)*, 274 F. 2d 376, 378 (C.A. 3), denying enforcement on unrelated grounds of 122 NLRB 1390, 1397, 1399. Similarly, the Unions' effectiveness to speak on behalf of their locals, subject to the latter's reservation of authority on local matters, apparently was never challenged by the employers. Cf. *N.L.R.B. v. Roscoe Skipper*, 213 F. 2d 793, 794 (C.A. 5); *N.L.R.B. v. Marden*, 217 F. 2d 567, 571 n. 7 (C.A. 5), cert. denied, 348 U.S. 981; *N.L.R.B. v. Blanton Co.*, 121 F. 2d 564, 571 (C.A. 8).

the Trial Examiner found validated the lockout in this case, employers who bargain as a multiemployer unit have a legitimate interest in maintaining the integrity of that unit against atomization by a "whip saw" strike. Accordingly, the nonstruck employers may shut down and lock out their employees when the union strikes one of the employer members. *Buffalo Linen Supply Co.*, 109 NLRB 447, affirmed *sub nom.*, *N.L.R.B. v. Truckdrivers Local Union 449, Teamsters*, 353 U.S. 87.

However, as indicated, the Board held it was unnecessary to decide the factual issue whether the lockout was in protection of an existing multiemployer unit accepted by the Unions. In the Board's view, the lockout violated no statutory proscription under the Supreme Court's decisions in *American Ship Building Company v. N.L.R.B.*, 380 U.S. 300, and *N.L.R.B. v. Brown*, 380 U.S. 278—decisions which issued shortly before the Trial Examiner's decision and which before the Examiner and the Board were relied on as requiring dismissal of the complaint.

We submit the Board properly applied the statute. In *American Ship* and *Brown Food*, the Board had adhered to its view that a lockout, even though motivated by economic considerations, inherently infringed on statutory rights; therefore, a lockout was barred by the Act, except where it was to preserve a multiemployer unit in circumstances such as presented in *Buffalo Linen*, or in special single employer circumstances not presented here.²⁴ Thus, in *American Ship* the employer had engaged in a bargaining lockout by temporarily laying off his employees, after an impasse in the bargaining had been reached, for the purpose of securing his contract terms. The employer's sole objective was "to bring economic pressure to secure prompt settlement of the dispute on favorable

²⁴ The above reference is to single-employer lockouts which were permitted where their purpose was to avoid peculiar economic loss or operational hazards resulting from a partial strike or threatened by an imminent strike. See, Oberer, *Lockouts and the Law: The Impact of American Ship Building and Brown Food*, 51 Cornell L.Q. 193, 195-199 (1966).

Here then you see the effect
of the Supreme Court's decision.

30

terms." 380 U.S. at 305. There was no suggestion that the decision to lay off employees "was based either on union hostility or on a desire to avoid . . . bargaining under the Act." (*Ibid.*). Nonetheless, the Board concluded that the lockout violated Section 8 (a) (1) and (3) of the Act.

The Supreme Court rejected this ruling. As stated by the Court, the question was,

Whether an employer commits an unfair labor labor practice under [Section 8(a)(1) and (3)] when he temporarily lays off or "locks out" his employees during a labor dispute to bring economic pressure in support of his bargaining position [380 U.S. 301-302].

The Court noted that under Section 8(a)(1) some employer acts are "demonstrably destructive of collective bargaining" (380 U.S. 309), and that under Section 8 (a) (3) "some practices . . . are inherently so prejudicial to union interests and so devoid of significant economic justification that no specific evidence of intent to discourage union membership or other antiunion animus is required." 380 U.S. 311. However, the Court rejected a view that, except in special circumstances, a lockout fell into the above category of employer conduct. Thus, with respect to the finding of a Section 8(a)(1) violation, the Court held:

* * * It is important to note that there is here no allegation that the employer used the lockout in the service of designs inimical to the process of collective bargaining * * * What can be said is that he [the employer] intended to resist the demands made of him in the negotiations and to secure modification of these demands. We cannot see that this intention is in any way inconsistent with the employees' rights * * *. [380 U.S. at 308-309.]

With respect to the Section 8(a)(3) finding, the Court ruled that the Board could not find an intention to discourage union membership on the record, for

* * * this lockout does not fall into that category of cases arising under § 8(a)(3) in which the Board may truncate its inquiry into employer motivation. As this case well shows, use of the lockout does not carry with it any necessary implication that the employer acted to discourage union membership or otherwise discriminate against union members as such. The purpose and effect of the lockout were only to bring pressure upon the union to modify its demands. [380 U.S. at 312.]

* * *
To find a violation of § 8(a)(3) * * * the Board must find that the employer acted for a proscribed purpose. * * * [W]e conclude that where the intention proven is merely to bring about a settlement of a labor dispute on favorable terms, no violation of § 8(a)(3) is shown. [380 U.S. at 313.]

In *Brown Food*, when the union during negotiations struck one member of a multiemployer unit, the non-struck members locked out their employees. However, unlike the situation in *Buffalo Linen*, both the struck and nonstruck employers continued to operate by hiring temporary replacements. The Board held the lockout unlawful, distinguishing *Buffalo Linen* on the ground that since the struck employer continued to operate, it was unnecessary for the nonstruck employers to lockout their regular employees, who were willing to continue working, in order to preserve the solidarity of the multiemployer unit; hence, it could be inferred that the lockout by the nonstruck employers was not defensive but retaliatory against protected strike action. The Supreme Court rejected this holding. The Court reiterated its rejection in *American Ship* of the view that a lockout is barred by the Act absent compelling circumstances. Thus, as to the violation of Section 8(a)(1), the Court held that although the nonstruck employers'

[c]ontinued operations with the use of temporary replacements may result in the failure of the whip-saw strike . . . this does not mean that the employ-

ers' conduct is so demonstrably destructive of employee rights and so devoid of significant service to any legitimate business ends that it cannot be tolerated consistently with the Act . . . [380 U.S. 286.]

As to the violation of Section 8(a)(3), the Court stated:

. . . where, as here, the tendency to discourage union membership is comparatively slight, and the employers' conduct is reasonably adapted to achieve legitimate business ends. . . ~~we enter into an area where the improper motivation of the employers must be established by independent evidence~~ [380 U.S. 288.]

The lockout in this case was demonstrably lawful under the principles now established by the above cases. It is not even asserted that independent evidence exists which establishes the lockout was motivated by reasons proscribed by the Act. And it now may not be asserted that the lockout was necessarily "so destructive of employee rights" or "so devoid of significant economic purpose" as to "carry its own indicia of unlawful intent." To the contrary, the Unions have a long and established bargaining relationship with the Association members. There is not the slightest suggestion that the lockout was calculated to undermine that relationship or that the Unions' representative status was endangered.²⁵ Here, as in *American Ship*, the lockout was used following an impasse in negotiations and was in furtherance of the employers' position on contractual terms.²⁶ The Unions

²⁵ Compare, the Supreme Court's observation in *American Ship* that "[t]he unions here involved have vigorously represented the employees since 1952, and there is nothing to show that their ability to do so has been impaired by the lockout." 380 U.S. 309. See also, *Brown Food*, *supra*, 380 U.S. at 288-290.

²⁶ In *American Ship* the Court expressly left open the question whether a pre-impasse bargaining lockout is violative of the Act. 380 U.S. at 308, 318. The Board has not had occasion to pass upon the issue. But whatever the answer, the issue is not presented here, if the Board correctly found that the lockout occurred after an impasse had been reached in the bargaining negotiations. (See, *infra*, p. 34 n. 27).

seek to avoid *American Ship* on the ground that it involved a single employer. This fact affords absolutely no distinction. The members of the Association, bargaining through a joint spokesman, had each arrived at an impasse with the Unions over contractual terms which together with matters reserved for local bargaining would establish the terms and conditions of employment of each member's employees. Thus, when the Unions each left the bargaining table and invoked the locals' strike authorization to force the Association to capitulate, it was plainly in recognition that a deadlock had occurred with each employer on contract terms. Each member, therefore, had the right to use a bargaining lockout.

Indeed, the Unions' suggestion that reaching an impasse with each employer was not a necessary consequence of bargaining to an impasse with the Association is belied by the Unions' own actions. Thus, it was for the purpose of forcing the Association to concede on contract terms applicable to all Association members that the Unions struck several plants of two Association members. In short, the Union brought economic pressure to loosen the employers' joint unwillingness to compromise their last contract offer. The Unions may not now assert that the four nonstruck employers were not in a position to invoke a bargaining lockout under *American Ship, supra*. Furthermore, it could not be questioned that under *American Ship* the two struck employers could lawfully shut down their remaining plants, absent independent evidence of unlawful motive. The nonstruck employers' situation differed only in one respect: they had not yet been struck. However, the strike weapon had not yet been invoked against the employer in *American Ship*. Nonetheless, he violated no statutory proscription by locking out to further his bargaining position and "to bring pressure upon the union to modify its demands." 380 U.S. 312. That is all the intervenors did here, and the Board properly held

that their actions were similarly permissible under the Act.²⁷

The Unions' additional contentions are without merit.

1. The Unions' assertion that the record does not show with certainty that a bargaining impasse had occurred before the lockout is wholly without substance. The Association bargained with both Unions to the point where, in the final negotiation meetings, the Unions stated that ~~the Association's contract offers were unacceptable. Hartley (LSW) then declared that unless the offers improved the employers would "get [their] smoke stacks cooled" (supra, p. 16). Nelson (IWA) suggested that the parties could "find the answer better in a strike" (supra, p. 17).~~ At that time, as set forth supra, pp. 19-20, it was the Unions' negotiators, Hartley and Nelson, who opined that a "deadlock" had occurred and that "discontinuing the negotiations" was in order since "[t]his looks like . . . an impasse." Moreover, the impasses centered on wages, the basic terms of employment subject to mandatory bar-

²⁷ Contrary to the Unions' assertion, a different conclusion is not dictated by the Supreme Court's remand order, "for further consideration in light of *American Ship*," of *Detroit Newspaper Association et al. v. N.L.R.B.*, 346 F. 2d 527 (C.A. 6), remanded sub nom., *Newspaper Drivers & Handlers Local Union No. 372, Teamsters v. Detroit Newspaper Publishers Association, et al.*, 382 U.S. 374. In that case, two newspapers were bargaining separately in different units with the same union. When the union struck one paper, the other, pursuant to an agreement with the first to shut down if the latter were struck, locked out its employees. The Board, in a decision issued before *American Ship*, held the lockout was unlawful. The Sixth Circuit, citing the two papers' common interest in their contract terms with the union, held that under *American Ship* the non-struck paper could lawfully lock out even before a bargaining impasse and even though it was "conceded that the [employers] do not bargain with the [union] jointly or as a multiemployer unit . . ." (346 F. 2d at 530). The case presents the question—not present here—whether the lack of impasse and the separate bargaining in a different unit, either singly or in conjunction, are enough to warrant a different result than that reached in *American Ship*. The Supreme Court's remand cannot be interpreted to imply more than that the Court deemed it appropriate that the Board should be afforded the initial opportunity to reexamine its decision in the light of the supervening Supreme Court ruling (see supra p. 32 n. 26).

gaining. Thus on June 4, the day before the Unions struck, Hartley told Wyatt that "the whole thing could be settled by opening the purse strings" (*supra*, p. 19).

When the Unions struck, both unequivocally informed their locals that the action was justified in view of a deadlock on economic issues. As shown *supra* p. 20 n. 17, on June 5 IWA informed its locals that a strike against the Association members was necessary because they "refuse to make a decent proposal toward a settlement of our just demands in this year's negotiations." That same day, LSW informed its locals that strike action was being taken in support of "wage demands" because "negotiation with the Big Six [Association] reached an impasse." When the Association members made their decision on June 7 to lock out, they first concluded that an impasse in the negotiations wholly underlay the strike (*supra*, p. 20). We submit that the Unions' suggestion that this latter conclusion was not a reasonable one is, on this record, totally without merit. *Dallas General Drivers, etc., Local Union No. 745, Teamsters v. N.L.R.B.*, — U.S. App. D.C. —, 355 F. 2d 842.²⁸

2. Equally without substance is the Unions' contention that since the Association members announced that the lockout was to protect a multiemployer unit against a whipsaw strike, the lockout may not be defended on the ground that it flowed from the bargaining impasse. Be-

²⁸ Contrary to the Unions' assertion, Wyatt's own testimony does not show that an "impasse" had not occurred until July 15, well after the strike and lockout. Rather, the testimony has reference to the Unions' rejection of the Association's settlement proposal of that date (J.A.). Bargaining after an impasse, is, of course, required by the statute if an offer of compromise or other circumstances provide a basis for further negotiations. And as stated by this Court, "... the fact that the parties resumed discussion ... after [an impasse] is not incompatible with a finding that an impasse ... had been reached by that [earlier] date." *Dallas General Drivers, etc., Local Union No. 745, Teamsters v. N.L.R.B.*, *supra*, — U.S. App. D.C. —, 355 F. 2d at 845. Cf. *N.L.R.B. v. U.S. Cold Storage Corp.*, 203 F. 2d 924, 928-929 (C.A. 5), cert. denied, 346 U.S. 818; *N.L.R.B. v. Waycross Machine Shop*, 283 F. 2d 733, 740 (C.A. 5).

cause negotiations had proceeded to impasse, intervenors had a significant economic interest which they could lawfully seek to advance by locking out their employees. *American Ship, supra*; *Brown Food, supra*. For that reason, as the Supreme Court held in the cited cases, the Board may not infer that a lockout at that stage of the bargaining process is necessarily "destructive of employee rights" or that it "carries its own indicia of unlawful intent." Rather, in these circumstances the intervenors' lockout may be invalidated only on independent evidence supporting a finding that the lockout was for a "proscribed purpose." *American Ship, supra*, 380 U.S. at 312-313. This finding may not be made on the evidence that (as the Board found) the intervenors locked out to defend what they assumed, perhaps mistakenly, was an existing multiemployer unit: that motivation is 'lawful under well established principles. *Buffalo Linen, supra*. In sum, the Act permitted the intervenors' lockout action if it was not motivated by an unlawful objective. No evidence was presented which is contrary to the Board's finding that the lockout was not unlawfully motivated. A statutory violation, therefore, may not be found. See, *Associated Press v. N.L.R.B.*, 301 U.S. 103, 132; *Local 357, Teamsters v. N.L.R.B.*, 365 U.S. 667, 679-680 (concurring opinion).

Furthermore, we submit it is apparent that intervenors' tendered explanation of multiemployer defense against a whipsaw strike does not mean that the impasse in negotiations was not also the catalyst which underlay their lockout. Multiemployer bargaining "permits the employers to match increased union strength . . . and avoid . . . the competitive disadvantages resulting from nonuniform contractual terms." *Buffalo Linen, supra*, 353 U.S. at 94-96. Bargaining in a multiemployer unit is thus a means of obtaining better contract terms. The lockout against a whipsaw strike may often be characterized as only an effort to preserve the solidarity of the multiemployer unit, as the intervenors, believing they had formed such

a unit, described their lockout. But articulation of only this immediate objective—perhaps with a view to conforming to then decided cases under the statute²⁹—clearly does not negate the employers' ultimate objective of prevailing in their bargaining positions.³⁰ In short, a lockout after impasse and justified as protecting the unity of employers in group bargaining is, absent any other proven purpose, also a means "to bring economic pressure to secure prompt settlement of the [bargaining] dispute on favorable terms." *American Ship, supra*, 380 U.S. at 305.³¹

Furthermore, that breaking of the impasse was the underlying purpose of the lockout is demonstrated by the manner in which the lockout was terminated. Thus, the employers aborted the shutdown because its purpose—to bring pressure on the Unions to settle on less favorable terms—was not being served. As Wyatt testified (J.A. 268):

²⁹ At the time of the lockout and the hearing the Supreme Court decisions in *American Ship* and *Brown Food* had not issued.

³⁰ Similarly the whipsaw strike, while having the immediate objective of dividing the employers, obviously has the ultimate objective of securing the union's contract demands from all the employers.

³¹ Compare, the observation that "... in *Buffalo Linen*, the Court, like the Board, recognized that defensive multi-employer lockouts were necessary to prevent fragmentation of the bargaining unit by means of the threat of successive strikes against the unstruck employers implicit in the strike against one. But the Court went on to make clear that the preservation of the larger unit was not an end in itself but a means of improving the employers' ultimate bargain * * *

"* * * And, as to any particular defensive lockout, it would be a heroic task to determine whether its primary significance goes to preserving the unit rather than to exerting economic pressure. Indeed, those two purposes are so inextricably linked that trying to disentangle them involves an unprofitable word game." (Meltzer, "Lockouts: Licit and Illicit" in New York University Sixteenth Annual Conference on Labor (1963), pp. 25-26)). See also, Berk, *The Bargaining Lockout: The Great Equalizer*, 13 U.C.L.A. L.Rev. 381, 386-389 (1966); Oberer, *Lockouts and the Law: The Impact of American Ship Building and Brown Food*, 51 Cornell L.Q. 193, 229-230 (1966).

We determined about this time [August 2] . . . the shutdown, in view of what was happening around us, was probably not either required or desirable to accomplish that original purpose.

* * * *

. . . we considered that bargaining as we could see it was going on around us rather than with us . . . We felt that we were stalemated . . . and that being the practical bargaining situation that . . . we ought to get back in the game . . .

In view of the progress of bargaining, it seemed that no useful purpose . . . was then being served by continuing to keep the plants closed as voluntary employer action.

Therefore, the Board, while accepting the intervenors' contemporaneous utterances and later pleadings and arguments justifying the lockout as consistent with a well-established statutory purpose, could conclude that the lockout also was "in furtherance of the bargaining position advanced jointly" to the point of impasse (J.A. 4). Properly, this conclusion stems from the "facts and not from any legal abstraction." *The Kroger Co.*, *supra*, 117 U.S. App. D.C. at 339, 330 F. 2d at 213.

3. The Unions assert that the intervenors' joint bargaining and lockout had a purpose and design which "violated competition-in-commerce norms expressed in the anti-trust laws and implicit in the NLRA" (Unions' Br.), citing *United Mine Workers v. Pennington*, 381 U.S. 657. However, the holding in that case, decided well before the Board's decision, is totally inapposite. In *Pennington*, the Supreme Court held that it would be violative of the antitrust laws for a union and a group of employers to conspire that the union would impose certain wages upon smaller, non-union operators, regardless of their ability to pay, for the purpose of eliminating the smaller operators from the industry. In disposing of the union's contention that it was exempt from liability under the antitrust

certified
to return
to work
by 8/1/54
to the
company

laws, the Court stated "... there is nothing in the labor policy indicating that the union and the employers are free to bargain about the wages, hours, and working conditions of other bargaining units or to attempt to settle these matters for the entire industry. On the contrary, the duty to bargain unit by unit leads to a quite different conclusion." 381 U.S. at 666. This observation has no application to the instant case, however, for like *American Ship* and *Brown Food* this case concerns bargaining and locking out by employers solely to force unions representing their employees to accept the employers' proposal for a contract covering only their bargaining units.²² Cf. *Local Union No. 189, Amalgamated Meat Cutters v. Jewel Tea Co.*, 381 U.S. 676, 689-690 (opinion of Mr. Justice White), 697, 712-713, 722 (opinion of Mr. Justice Goldberg). (And see Wyatt's testimony, *supra*, pp. 37-38).

4. The Unions' request that the Court remand this case to the Board for further consideration has no foundation. It is true that the complaint and hearing proceeded on the legal theory that the lockout was unlawful unless the intervenors could establish that it was a defensive multiemployer lockout within the holding of *Buffalo Linen*. However, before entry of the Trial Examiner's and the Board's decisions the Supreme Court rejected the Board's view on the illegality of a bargaining lockout. *American Ship supra*; *Brown Food, supra*. The parties were afforded opportunity to address themselves to the issues presented in the case in the light of the Supreme Court's supervening decisions. Compare, *N.L.R.B. v. Pease Oil Co.*, 279 F. 2d 135, 139 (C.A. 2). Briefs and argument on those issues were submitted to both the Trial Examiner and the Board. It was obviously not necessary, nor did the Unions move, to have further hearing to resolve the issues presented. Cf. *Curtiss-Wright Corp. v. N.L.R.B.*, 347 F. 2d 61, 72-74 (C.A. 3). The facts had been fully

²² The Union's assertions notwithstanding, it is self-evident that the above follows even though the employers were bargaining through a joint spokesman (see discussion, *supra*, pp. 24-28, 32-34).

and adequately developed, and it is not contended now that they were not.

Thus, the Unions, as the parties who had filed the unfair labor practice charges, had ample opportunity before the Board to make the arguments they now urge before this Court. Indeed, the Unions avowedly seek remand on "issues which were litigated and briefed before the Labor Board." (Unions' Br.). However, the Board has considered those issues and expressly found that on the facts presented the lockout did not violate the Act under the principles settled by the Supreme Court. Unlike the cases cited by petitioners to support a remand, opportunity to litigate the issues was thus presented, and the Board adequately made findings on the material issues. The Unions were sufficiently apprised of the basis of those findings to test their propriety before this Court, and no issues are now raised which the Court cannot resolve on the present record. That is all that is required. See, e.g., *N.L.R.B. v. Champa Linen Service Co.*, 324 F. 2d 28, 30 (C.A. 10), and case cited. Compare, *Local 833, UAW v. N.L.R.B. (Kohler Co.)*, 112 U.S. App. D.C. 107, 112-113, 300 F. 2d 699, 704-705, cert. denied, 370 U.S. 911. In effect, then, all the Unions seek is an opportunity for reargument before the Board. No reason has been presented why this Court should direct it.

*Was opportunity to litigate
presented if unpresented issue
not raised.*

CONCLUSION

For the reasons stated above, we respectfully submit that the petition to review the Board's order should be denied.

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May 1966

IN THE
United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19,842

WESTERN STATES REGIONAL COUNCIL No. 3, INTERNATIONAL
WOODWORKERS OF AMERICA, AFL-CIO,

and

WESTERN COUNCIL OF LUMBER AND SAWMILL
WORKERS, AFL-CIO, *Petitioners,*

v.

NATIONAL LABOR RELATIONS BOARD, *Respondent,*

and

WEYERHAEUSER COMPANY, CROWN ZELLERBACH CORPORATION,
RAYONIER INCORPORATED, INTERNATIONAL PAPER
COMPANY AND ASSOCIATION, *Intervenors*

On Petition To Review an Order of the
National Labor Relations Board

BRIEF OF INTERVENORS

United States Court of Appeals

for the District of Columbia

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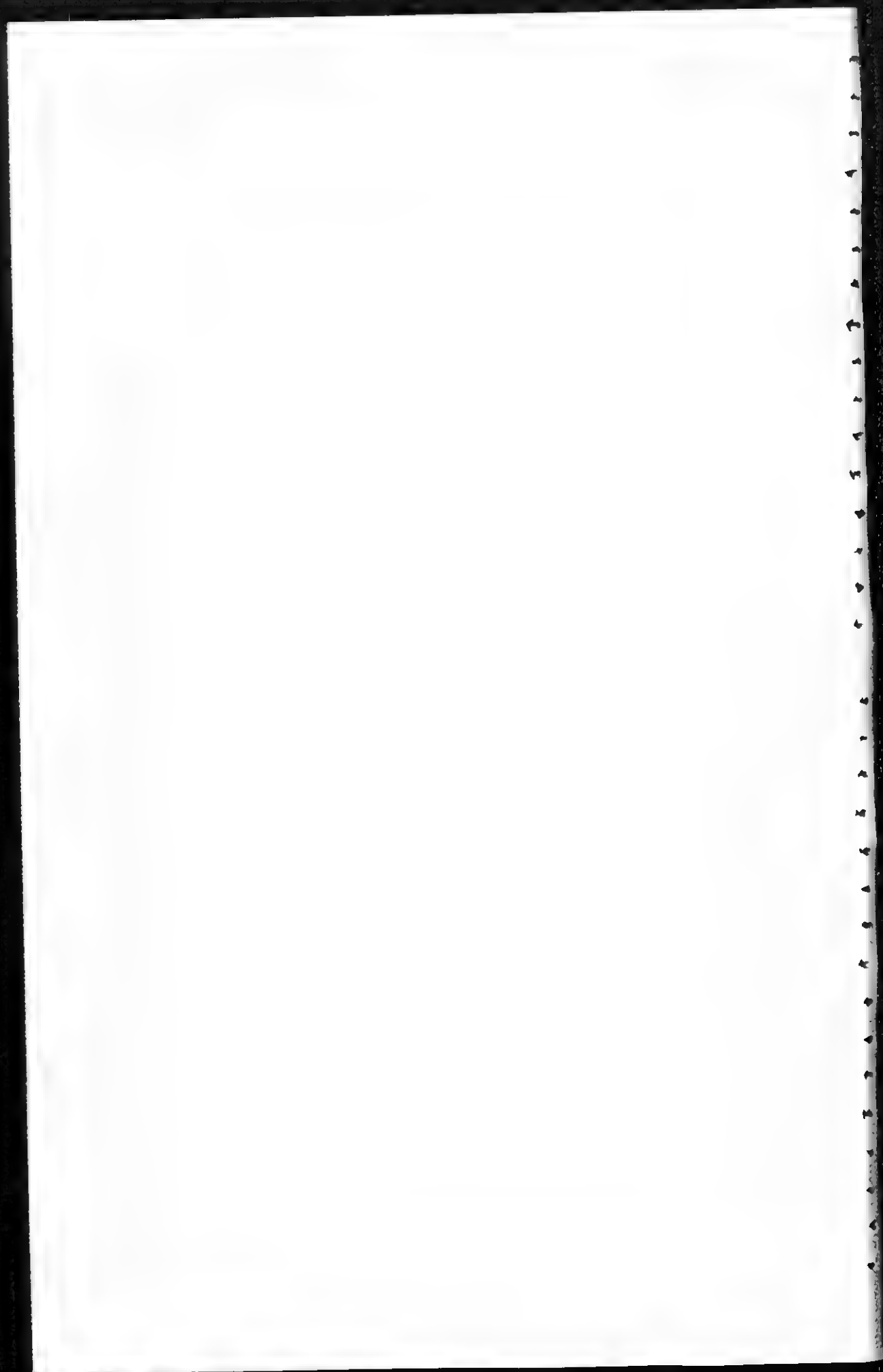
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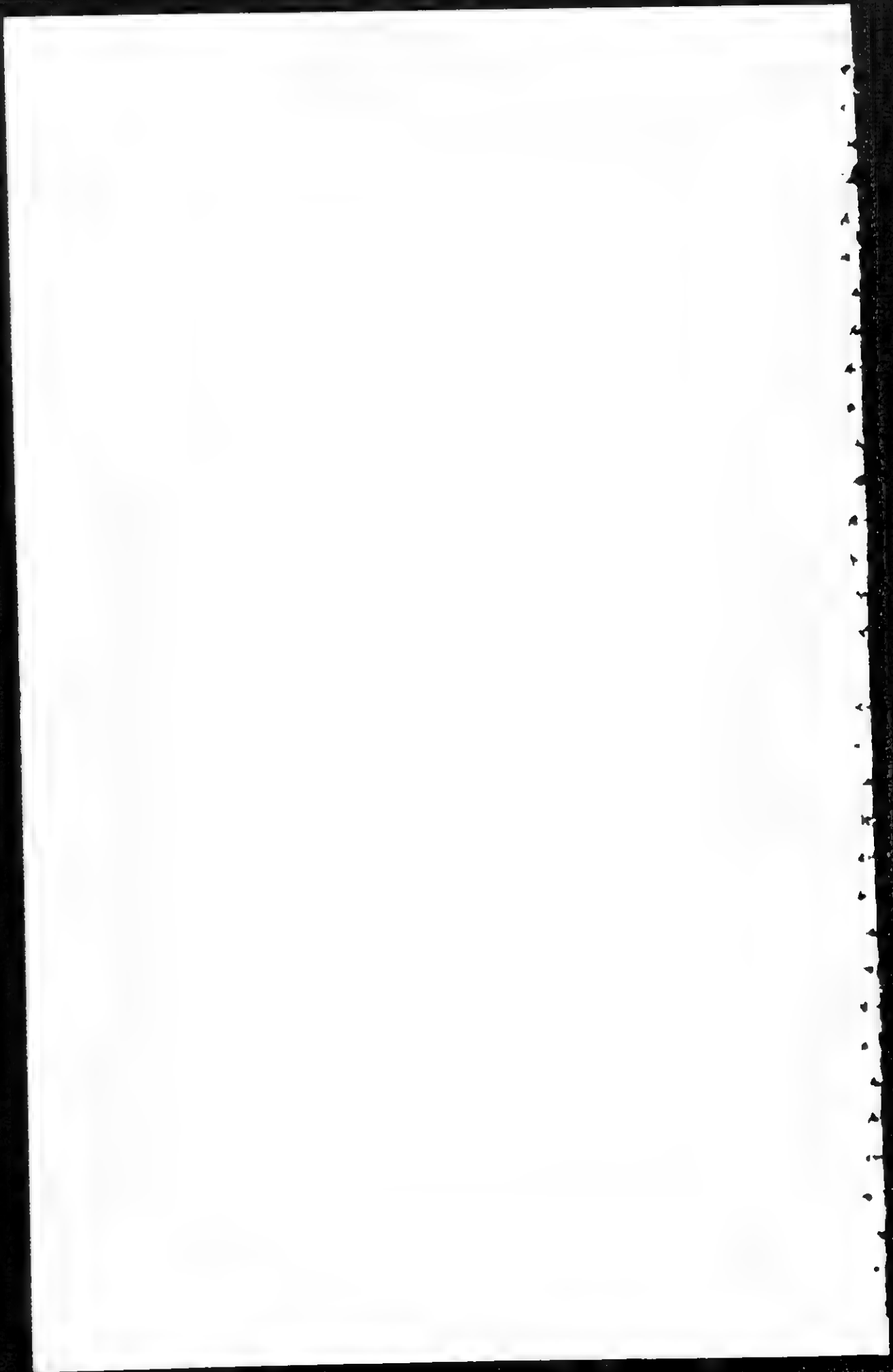
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STATEMENT OF QUESTION PRESENTED

As stated by the Petitioners and the Board, the question presented is:

“Whether the Board properly concluded upon substantial evidence on the record as a whole that intervenors did not violate Section 8(a)(3) and (1) of the National Labor Relations Act by the shutdown of plants in the circumstances found by the Board in this case”.

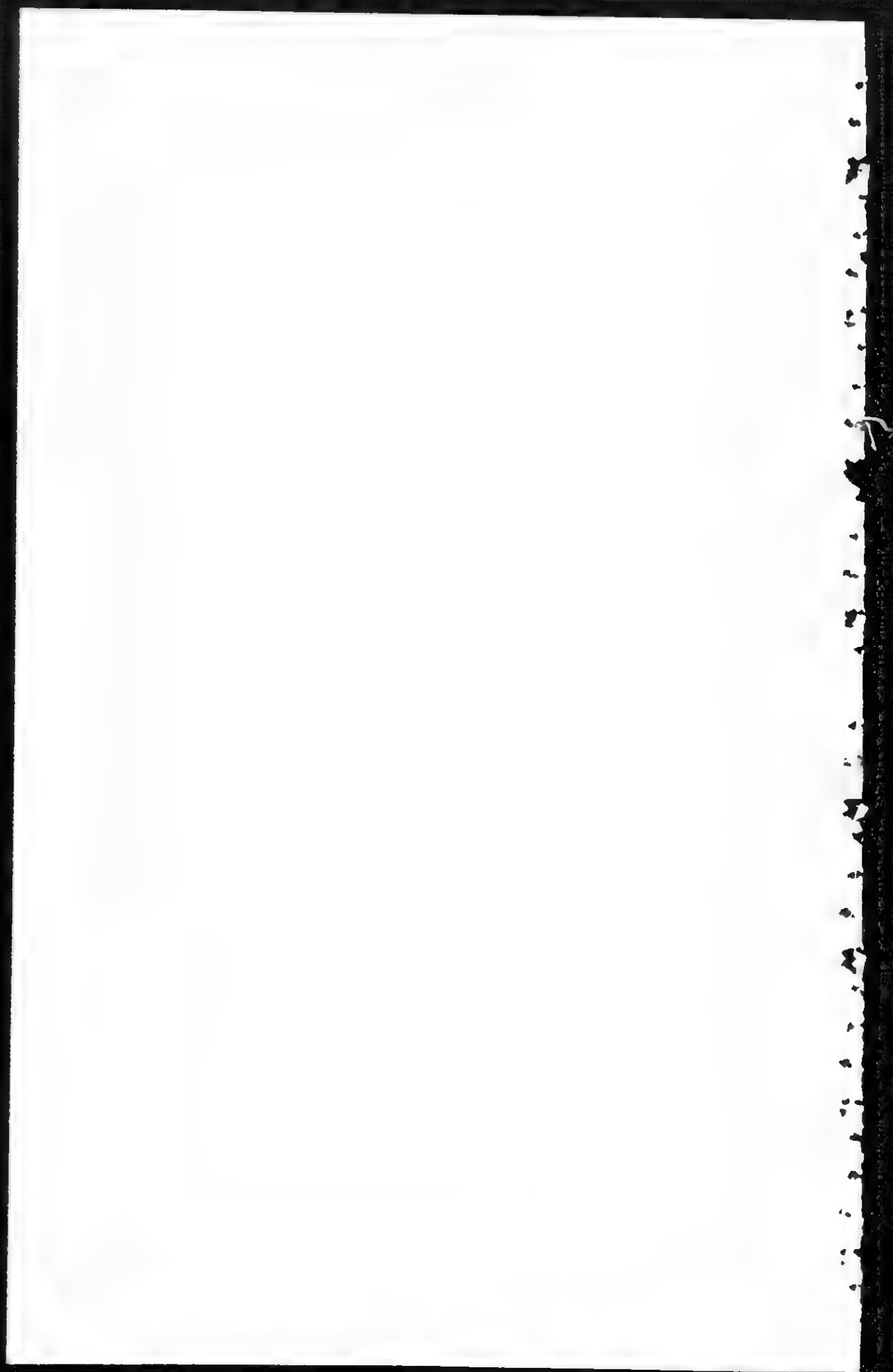


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COMPANY AND ASSOCIATION, *Intervenors*

On Petition To Review an Order of the
National Labor Relations Board

BRIEF OF INTERVENORS

COUNTER-STATEMENT OF THE CASE

In summary, as set forth in detail in the Board's brief,
the record shows:

In 1963 six companies formed an Association to bargain
with the IWA and LSW unions. The six member em-
ployers bargained jointly through the Association with
each of the unions over a period of several weeks until an
impasse was reached on the economic issues. The unions

acting in concert mounted a strategic whipsaw strike against the employers for the stated purpose of obtaining an Association settlement. While the initial strike was deliberately limited to two employers, the unions openly threatened to "extend it from time to time as circumstances and good strategy dictates" (I.R., JA 53; RX 378, JA 543). The four nonstruck employers in the Association engaged in the joint bargaining temporarily locked out their employees.

The whipsaw strike began on June 5, 1963, the lockout was initiated on June 7, 1963, and terminated on August 7, 1963. The final settlement by the Association with the unions was made on August 13, 1963.

The Unions charged that the lockout violated Sections S(a)(1) and (3) of the Act and constituted a refusal to bargain under Section 8(a)(5). After investigation, a complaint was issued on the 8(a)(1) and (3) charge but General Counsel refused to proceed on the 8(a)(5) charge, thus ruling out any contention that the bargaining was not *bona fide* or was not in accordance with the statutory requirements.

General Counsel's complaint was premised on the concept that the lockout was illegal *per se*, and that the burden was on the employers to plead and prove justification for the lockout. The employers contended on the other hand that no violation could be found "in the absence of independent evidence of anti-union motivation"; and that no violation can be presumed where the employers act "in response" to union action (Memorandum in Support of Motion to Dismiss, RX 364(I)¹).

So secure was General Counsel in his *per se* theory that he rested his case on the pleadings which established only that there was a lockout after a bargaining impasse in response to a whipsaw strike. When the employers moved

¹ This document and the one following have been lodged with this Court by the Board as a part of the pleadings.

to dismiss at that point, General Counsel defended his *per se* doctrine with this statement:

"It is well established Board law that an employer lockout incidental to bargaining negotiations is presumptively violative of Sections 8(a)(1) and (3) of the Act" (Memorandum of Authorities in Opposition to Motion to Dismiss, RX 364 (H)).

And further, in the same memorandum General Counsel stated:

"... it is clear in the present case that the General Counsel having established that the lockouts in question were executed incidental to bargaining negotiations, has given rise to the presumption of illegality. The burden is consequently on the Respondents to go forward with evidence to justify those lockouts".

Not having the benefit of the later Supreme Court statement of the law in *American Ship*² and *Brown*,³ the Trial Examiner accepted General Counsel's theory, overruled the motion to dismiss, and required Intervenors to proceed with the establishment of justification for the lockout, and a lengthy trial ensued.

Upon the conclusion of the trial, the Examiner, applying the holding in *Buffalo Linen*,⁴ concluded that the lockout was lawful. He did not consider the case in the light of *American Ship* and *Brown* which were decided after the Trial Examiner's decision had been prepared.

Upon appeal by the General Counsel and charging parties, the Board, affirming material factual findings made by the Trial Examiner, found that the case was controlled by *American Ship* and *Brown* and affirmed the dismissal.

² *American Ship Building v. N.L.R.B.* (1965), 380 U.S. 300.

³ *N.L.R.B. v. Brown* (1965), 380 U.S. 278.

⁴ *N.L.R.B. v. Truck Drivers Local Union No. 449 (Buffalo-Linen)*, (1957), 353 U.S. 87.

The Board found:

1. "Whatever the precise status of the Association, . . . it is clear that, at the least, it served as the designated representative through which its six members bargained jointly with the Unions during [the] negotiations" (D & O, JA 2).
2. "It is also clear that, by June 5, all six Employers had reached an impasse with the Unions over certain of the economic items being negotiated" (D & O, JA 2-3).
3. "... the four Respondent Employers, believing themselves part of a valid multiemployer bargaining unit along with the two struck Employers, closed their plants for the purpose of preserving the integrity of that unit, and in furtherance of the bargaining position advanced jointly for all six Employers by the Association" (D & O, JA 4).
4. "There is no contention that the Respondents 'used the lockout in the service of designs inimical to the process of collective bargaining'", and "'no evidence and no finding that the [Respondents were] hostile to [their] employees banding together for collective bargaining or that the lockout was designed to discipline them for doing so'" (D & O, JA 4).

The Board concluded:

"... we find that the principles announced by the Supreme Court in *American Ship Building* and *Brown* apply to the situation where, as here, two or more employers bargain jointly with a union, an impasse in negotiations is reached over a mandatory subject of bargaining, and the union strikes only some of the employers engaged in such joint bargaining. The subsequent lockout by the nonstruck employers in that situation clearly lacks the discriminatory motivation required by the Court's holdings, while it does serve a 'significant employer interest'" (D & O, JA 4-5).

SUMMARY OF ARGUMENT

The Board, affirming a Trial Examiner's decision, held that a lockout by four of six employers who had jointly bargained to an impasse with the Unions through an employer association was lawful in circumstances where (1) there was no claim or evidence of antiunion motivation and (2) the lockout was designed to protect the integrity of their association bargaining from the Unions' whipsaw strike and to further their joint bargaining position. As the Board opinion and the Board's brief show, that holding was required under principles established by the Supreme Court governing the employer lockout.

Petitioners have not so much as attempted to upset the Board's essential findings of fact or to point to record evidence requiring or even supporting different factual findings or conclusions. Nor do Petitioners attempt to argue directly that these findings fail to support the Board's ultimate conclusion that the lockout was lawful.

Rather, Petitioners incorrectly interpret the Board's holding as a ruling that any lockout following a bargaining impasse is lawful without regard to the existence of a causal relation between the impasse and the lockout. This completely misinterprets the Board's holding. The Board held here that the lockout not only followed an impasse but was intended to preserve the integrity of the association which was threatened by a whipsaw strike and to advance the joint bargaining position of all six employers. Thus the lockout was inextricably related to the bargaining, the impasse and the whipsaw strike that followed. The lockout was not, as Petitioners suggest, merely a sterile and unrelated "unit" or "unity" protecting device.

Petitioners' contention that the case should be remanded to the Board is without substance. The claimed basis for the remand is that the Board was required to rule on the question of whether the negotiations in which the association was engaged with the Unions was multiemployer unit

bargaining or joint bargaining through a common agent. The Board correctly held that it was unnecessary under the circumstances of this case to rule on that question. Whether the bargaining was on the basis of a single multiemployer unit or was joint bargaining in which each of the six employers negotiated jointly through their association, the lockout was lawful under established law.

The two controlling findings are that there was no claim or evidence of discriminatory motivation and the lockout did "serve a significant employer interest". In these unchallenged circumstances, a remand could not serve any useful purpose.

ARGUMENT

I

Petitioners' Brief Does Not Treat With the Circumstances Found by the Board or the Issue Presented on Review

Petitioners' brief never reaches the issue before this Court. The question presented is whether the Board's findings are supported by substantial evidence and whether the Board properly concluded that the lockout was lawful under the circumstances found by the Board.

Petitioners do not deal with the "circumstances found by the Board", i.e., that the six employers bargained jointly with the Unions, that all six reached an impasse with the Unions over economic issues, that when the Unions took strike action, the nonstruck employers involved in the bargaining closed their plants not only to preserve their multi-employer unit but "in furtherance of the bargaining position advanced jointly for all six employers by the Association," and that there was no evidence of interference with employee rights or discriminatory motivation (D & O, JA 4).

Petitioners neither attack the Board's findings as not supported by substantial evidence nor argue that such findings are insufficient to support the Board's conclusion.

Thus, Petitioners attempt to skirt around the statutory requirements for upsetting the Board's findings.⁵

Unwilling to concede and unable to attack the findings, Petitioners attempt to mask the facts by use of a succession of equivocal misnomers. They refer to the joint bargaining as "simultaneous group bargaining" (Pet. Br., p. 2). Without reference to the facts, they label the impasse "irrelevant" (Pet. Br., p. 27 *et seq.*) and the lockout as solely "unity-protecting" (Pet. Br., p. 27), and argue that an irrelevant bargaining impasse does not justify a subsequent "solidarity lockout" (Pet. Br., pp. 32-40). But the Board found that the lockout by Intervenors was not only to preserve the integrity of the unit but also "in furtherance of the bargaining position advanced jointly for all six Employers by the Association", in which bargaining all six employers had reached an impasse with the Unions (D & O, JA 4).

In addition to ignoring the key findings of the Board, Petitioners misstate the Board's holding. Petitioners say "the Board holds that since the employers' lockout followed a bargaining 'impasse' between the parties concerning the substantive terms of new collective bargaining agreements, the lockout was *ipso facto* lawful" (Pet. Br., p. 3). At another point Petitioners assert: "The Board's abrupt and evasive ruling simply holds that the lockout in *American Ship Building* came after an impasse; that the same was true of the Big Six lockout; *ergo*, this lockout, too, was permissible" (Pet. Br., p. 31).

This is not the Board's holding. The Board held that "where, as here, two or more employers bargain jointly with a union, an impasse in negotiations is reached over

⁵ 29 U.S.C. Sec. 160(e), provides, in part, as follows:

" . . . The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive"

a mandatory subject of bargaining, and the union strikes only some of the employers engaged in such joint bargaining . . . [then] the subsequent lockout by the nonstruck employers in that situation clearly lacks the discriminatory motivation required by the [Supreme] Court's holdings, while it does serve a 'significant employer interest'" (D & O, JA 45).

Petitioners' main attack is centered upon the Board's failure to pass on whether or not the Association bargained as a multiemployer "unit" in the technical sense. A major part of their brief is devoted to a wholesale reargument of the merits of the Trial Examiner's finding on this issue, which issue was not ruled on by the Board and is admittedly not before the Court. The Board specifically dealt with this issue, but decided that it was unnecessary to pass on the issue because it was immaterial under *American Ship* and *Brown* whether the negotiations were conducted on the basis of a multiemployer unit, or on the basis of joint negotiations through the Association as agent. Certainly the Board does not have to resolve an issue that is not necessary to the case. Petitioners have no right to insist that the Board disregard *American Ship* and *Brown*.

Petitioners further attempt to inject an antitrust issue by reference to the *Pennington* decision.⁶ There is neither analogy nor similarity. *Pennington* was a case in which the Court held that antitrust statutes would be violated if it were proved as alleged that a national union conspired with a dominant group of coal operators to control the coal market by deliberately establishing a level of wages and benefits too high for the smaller producers to meet and by prior agreement attempting to force those wage scales and benefits on the smaller producers.

Nothing faintly resembling that type of situation is present here. It is fruitless to enumerate differences since

⁶ *United Mine Workers of America v. Pennington*, (1965) 381 U.S. 657.

there is no similarity; but one essential distinction from *Pennington* is that in this case there was no purpose and no attempt to foist an agreement on other employers not directly involved in the negotiations. The purpose of the lockout here as the Board found was restricted to the preservation of the integrity of the Association group, and "in furtherance of the bargaining position advanced jointly for all six Employers by the Association". The Board thus by express finding negated any possible *Pennington*-type motive or purpose. In short, the lockout here was not even remotely directed at or intended to affect other business groups. As in *Buffalo Linen, American Ship* and *Brown*, the lockout here was resorted to solely in the interest of protecting and preserving legitimate bargaining goals of the six employers jointly engaged in the negotiations.

II

The Intervenors Locked Out To Affect Negotiations in Which They Were Directly Involved

Petitioners argue that the lockout here was "solely" for the purpose of protecting a multiemployer bargaining "unit" as such and not to advance or defend the bargaining position of the employers (Pet. Br., p. 3 *et seq*).

Petitioners' contention flies in the face of the Board's finding that the lockout was "for the purpose of preserving the integrity of that unit [the multiemployer unit], and in furtherance of the bargaining position advanced jointly for all six Employers by the Association" (D & O, JA 4). (Emphasis added)

The record fully supports these findings. When the Unions struck two of the employers on June 5, 1963, the four non-struck employers announced on June 7 that they

¹ Petitioners use the terms "unity protecting agreement" and "unity protecting lockout". In their statement of the case (Pet. Br., p. 2), they define "unity" as the unity of a multiemployer unit.

were shutting down their operations "to protect the interests of our group against this selective strike" (Pet. Br., p. 13, RX 28, D & O, JA 4). This action was taken pursuant to the Association agreement which provided for a lockout only if a Union struck one or more of the member companies "as a result of negotiations on or with respect to subjects of bargaining delegated to the Association". In that situation, a shutdown was authorized "in order to protect the entire membership of the Association in its conduct of such bargaining negotiations" (RX 206, Board Br., p. 7 fn. 9). Nothing is said here about protection of a "unit". The Board's finding that the lockout was "in furtherance of its bargaining position advanced jointly for all six Employers by the Association" aptly describes the realities of the situation and the facts as pleaded and proved by Intervenor employers.⁵

Petitioners attempt to draw a fine dichotomy between a lockout to preserve a "unit" and a lockout to preserve or advance a bargaining position. This argument exalts form over substance, and seeks to hinge the exercise of significant statutory rights in a labor dispute on the tech-

⁵ The Petitioners' citation of the *Detroit Newspaper Publishers* case, 346 U.S. 327, rem'd. 86 S.Ct. (1966) 543 (Pet. Br., pp. 36-38) is not apposite. In that case, as the Petitioners' excerpt from the Court's summary of the facts shows, it was "conceded that the Free Press and News do not bargain with the Teamsters jointly or as a multiemployer unit, as that term is traditionally used by the Board and the Courts". In this case the six employers did bargain jointly, as the Board found, and this is a vital distinction. The Association agreement (RX 206, par. 7; Bd. Br., p. 7 fn. 9) specifically provided that no member was required to close or suspend operations by reason of a strike against another member employer as a result of such employer's separate negotiations. Thus the Association agreement here did not sanction a lockout in a situation where there were separate negotiations as in *Detroit Newspaper Publishers*. Moreover, the Supreme Court simply remanded the case to the Board for consideration in the light of *American Ship*, which had not been decided by the Court when *Detroit Newspaper Publishers* was originally decided by the Board. Contrary to any inference which may be left by Petitioners' brief (pp. 34-39), that the Court included antitrust consideration in the remand, the Court limited the remand to "further consideration in the light of *American Ship*" (382 U.S. 374).

nical distinction between joint bargaining and multiemployer unit bargaining and to give talismanic effect to the words and phrases used to describe conduct rather than the essential nature and purpose of the conduct itself.

There is no meaningful difference between a lockout to preserve the integrity of a multiemployer unit or the "unity" of a multiemployer group and a lockout in support of a jointly held bargaining position. A bargaining "unit" is a technical concept which has significance primarily in relation to the certification procedures of Section 9(c) of the Act and the requirements of Sections 8(b)(3) and 8(a)(5).

The format of the bargaining is not an end in itself but merely a means to an end. An employer's real interest is in the issues involved in the bargaining and in advancing his bargaining position in a practical way. The point is that whether conducting his bargaining on an individual basis, or as part of a group engaged in joint negotiations of the same issues, or as part of a multiemployer unit, the interest of the employer in the preservation or advancement of his bargaining position is essentially the same.

In any one of these situations, he has the equal right to use the lockout for the purpose of defending or advancing his bargaining position, and, in this instance, to protect himself from the effects of a whipsaw strike. Whether the association which represents him qualifies as a multiemployer unit or is conducting joint bargaining, the interest of the employer in defending against the whipsaw is no less direct and legitimate in the one case than in the other.

The immediacy, directness, and legitimacy of the interest of each of the six employers in the bargaining which took place here can hardly be questioned. Here, the six employers were members of an association which they formed and authorized to conduct negotiations with the two Unions here involved. By mutual consent and without any compulsion of any kind, the Unions met with the Association

and conducted bargaining over a period of time on economic issues which were common to all six employers. An impasse was reached in the negotiations over economic issues, and the two Unions struck two of the six employers for the express purpose of forcing settlement of the dispute by the Association. The four remaining employers responded with a temporary lockout; negotiations continued; the lockout was later terminated; and the Association and the Unions reached a settlement on all of the economic issues involved.

The whipsaw strike posed a direct threat to the bargaining position of each of the six employers. Resort to the lockout was a means of defending the integrity of their association bargaining whether the bargaining was multi-employer or joint, and a means of attempting to "affect the outcome of the particular negotiations" in which the six companies and each of them was directly "involved". (See *American Ship Building Co. v. NLRB*, 380 U.S. at 313).

III

The Board Correctly Dismissed the Case Under *American Ship and Brown*. and No Remand Is Necessary or Appropriate

The Court's broad approval of employer lockouts in *American Ship and Brown* nullified the doctrine of *per se* invalidity advanced by the General Counsel, and legitimized the lockout as a device for advancing employer bargaining positions and bringing economic pressure to bear to attain bargaining goals. It was not necessary, as the Board correctly found, for the employers to show that the Association was functioning with union consent as a technical multiemployer unit.

Nevertheless, Petitioners argue that: "this case must be remanded to the Board for a decision on these fundamental unresolved issues . . ." defined by Petitioners as (1) the question of "'binding' delegation by the employers of bargaining power to the new Association" and (2) the

"alleged union acceptance thereof as a multiemployer unit" (Pet. Br., pp. 2-3). The two issues are in fact two facets of a single issue—namely, the question of whether the joint negotiations leading up to the whipsaw strike and lockout were conducted on the basis of a single, multi-employer unit.

But the Board dealt with this issue and specifically held that because of the controlling principles which had been established in *American Ship* and *Brown* it was "unnecessary to pass on the Trial Examiner's factual conclusions that the Association existed, functioned, and was accepted by the unions as a formal multiemployer unit". The Board was clearly correct in this holding.

The concept that the use of the lockout was narrowly circumscribed and could be used only in the most limited circumstances—to defend the integrity of a multiemployer unit threatened by a whipsaw strike—was but another of the restrictive concepts extant with the General Counsel when this complaint was issued. This theory grew out of an effort to construe the earlier *Buffalo Linen* decision in its most narrow context, and limit the employer's right to lockout to the precise facts presented in the *Buffalo Linen* case. *American Ship* and *Brown* proved the magnitude of the error implicit in this view.

The lockout under the circumstances present here was equally lawful whether the Association constituted a multi-employer unit in the technical sense or whether the Association was merely a common agent through which the six employers were conducting joint negotiations. There was a dispute before the Trial Examiner (which the Trial Examiner resolved in favor of the employers) over whether there was in fact a single multiemployer unit. But, there was no dispute over the fact that the six employers bargained jointly through the Association.

The Board could, of course, have found, as did the Trial Examiner, that the parties had by word and conduct bar-

gained on the basis of a single multiemployer unit. Had the Board so found, its decision would have been equally supported. But, such a finding was unnecessary for a resolution of the case and the Board did not and was not required to make it. The legitimacy of the lockout was established without the necessity for such a finding. To have made such a finding simply would have added another but non-essential ground for holding the lockout valid.

Petitioners' position is that a multiemployer lockout can be justified in one circumstance only, namely, where it is used to protect the integrity of a multiemployer unit threatened with disintegration by a whipsaw or selective strike. This reflects the original position advanced by the General Counsel at the trial and was the precise theory upon which the case against the Intervenor was presented. But the obvious flaw in this argument is that it must resort to the pretense that *American Ship* and *Brown* were never decided. The argument falls back upon the General Counsel's earlier and erroneous interpretation of *Buffalo Linen*. What the argument fails to explain or rationalize is why employers engaged in joint negotiations on common issues with a union or unions should be denied the use of the lockout when recourse to the lockout would be sanctioned for each employer if separately engaged in negotiations with the same union or unions over the same economic issues.

Each of the six employers had the same direct stake and legitimate interest in the outcome of negotiations as it would have had if separately engaged in bargaining with the unions on the same issues. Had each employer been going it alone, each of them could have instituted a lockout when the impasse was reached, without the additional justification of the whipsaw strike. The interest of each employer in the outcome of negotiations and right to lockout was not forfeited by engaging in joint bargaining. This was in essence what the Board found, and the Board was clearly right.

*the one purpose pregnant within
other?*

Petitioners' remand argument suffers from an even more basic defect. Nothing would be accomplished by returning the case to the Board to rehash contentions as to bargaining unit and association "solidarity" for yet another threshold reason. There is no claim and no evidence in the case that the lockout was used for a "proscribed purpose", and, under the holding in *American Ship and Brown*, this is dispositive of the entire matter. Thus, the Court stated in *American Ship*:

"To find a violation of § 8(a)(3), then, the Board must find that the employer acted for a proscribed purpose. Indeed, the Board itself has always recognized that certain 'operative' or 'economic' purposes would justify a lockout. But the Board has erred in ruling that only these purposes will remove a lockout from the ambit of § 8(a)(3), for that section requires an intention to discourage union membership or otherwise discriminate against the union" (380 U.S. at 313).

In other words, these must be evidence independent of the lockout itself to show antiunion motivation or discriminatory intent. No such contention was either pleaded or proved. As the Board correctly found:

"There is no contention that the Respondents 'used the lockout in the service of designs inimical to the process of collective bargaining. There was no evidence and no finding that the [Respondents were] hostile to [their] employees banding together for collective bargaining or that the lockout was designed to discipline them for doing so' " (D & O, JA 4).

The Board goes on to conclude:

"Even assuming, therefore, that the Respondents were mistaken as a matter of law with respect to either the establishment or the recognition of the Association as a multiemployer unit, we find that the principles announced by the Supreme Court in *American Ship Building* and *Brown* apply to the situation where, as here, two or more employers bargain jointly with a union, an impasse in negotiations is reached over a mandatory subject of bargaining, and the union strikes

only some of the employers engaged in such joint bargaining. The subsequent lockout by the nonstruck employers in that situation clearly lacks the discriminatory motivation required by the Court's holdings, while it does serve a 'significant employer interest' "
D & O, JA 45).

The Board's conclusion is unimpeachable. No claim was made and no evidence was presented in this voluminous record to show the slightest suspicion of antiunion motivation or discriminatory intent. All six employers were involved in joint bargaining with the unions to an impasse on economic issues followed by a whipsaw strike. In an effort to protect their bargaining position, the non-struck employers instituted a temporary lockout. The Trial Examiner sustained this action under even the most restricted interpretation of the *Buffalo Linen* decision. The Board, with the supervening decisions in *American Ship* and *Brown* before them, found that none of the elements of an illegal lockout existed. This finding was clearly required by the record in this case.

CONCLUSION

For the reasons stated above, we respectfully submit that the petition to review the Board's order should be denied.

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